

Draft Environmental Assessment for the Kootenai Forestlands Conservation Project



May 30, 2019

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Abbreviations

FLP	Forest Legacy Program
MCA	Montana Code Annotated
FWP	Montana Fish, Wildlife and Parks
MRMP	Multi-Resource Management Plan
TPL	The Trust for Public Land
USDA	U.S. Department of Agriculture
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service

1.0 PURPOSE AND NEED FOR ACTION

1.1 PURPOSE AND NEED

Montana Fish, Wildlife and Parks (FWP) proposes the purchase of a conservation easement to protect approximately 22,295 acres of highly productive timberland and important fisheries and wildlife habitat in northwestern Montana around the City of Libby (Fig. 1). The property is owned by the Stimson Lumber Company (Stimson), one of the oldest continuously operating integrated wood products companies in the United States with roots dating back to the 1850s. This conservation project is a collaborative effort involving Stimson, The Trust for Public Land (TPL), and FWP. The proposed conservation easement, to be held by FWP, would allow Stimson to retain ownership of these timberlands, preclude development, protect important wildlife habitat and key landscape connectivity, and provide permanent public access and associated recreational opportunities.

The property currently provides over 1,100 days of public hunting access. Hunting opportunities exist on this property for elk, white-tailed deer, mule deer, moose, black bear, mountain lion, wolf, turkeys, and forest grouse. The property provides high quality winter range for moose, elk, white-tailed deer, and mule deer. It also provides habitat for 43 Species of Greatest Conservation Need as listed in Montana's 2015 State Wildlife Action Plan and includes federally designated critical habitat for three threatened species: Canada lynx, grizzly bear, and bull trout. Completion of this project would permanently secure free public access for hunting, hiking, fishing, snowmobiling, cross country skiing, and other outdoor activities.

The project shares 133 miles of border with the Kootenai National Forest. In a 2007 study entitled "National Forests on the Edge," the U.S. Forest Service (USFS) identified national forests throughout the country facing the most increased risks and alterations from escalating housing development on private rural lands along their boundaries. The Stimson project lands were identified as a moderate risk area where development growth rates on adjacent private lands were projected to be between 10% and 25% (Fig. 2). An increasing number of homes and developments in Lincoln County have occurred in unincorporated areas in Wildland-Urban Interface, which can strain the county's ability to provide wildfire protection services to these dispersed areas (Lincoln County 2009).

The primary objectives of this project are to:

- Conserve important fish and wildlife habitat;
- Continue sustainable commercial forest management; and
- Maintain public recreation access into the future.

Location

The project consists of scattered parcels surrounding Libby, Montana that are almost entirely surrounded by Kootenai National Forest land.

KOOTENAI FORESTLANDS CONSERVATION PROJECT
 FY19 Forest Legacy Proposal

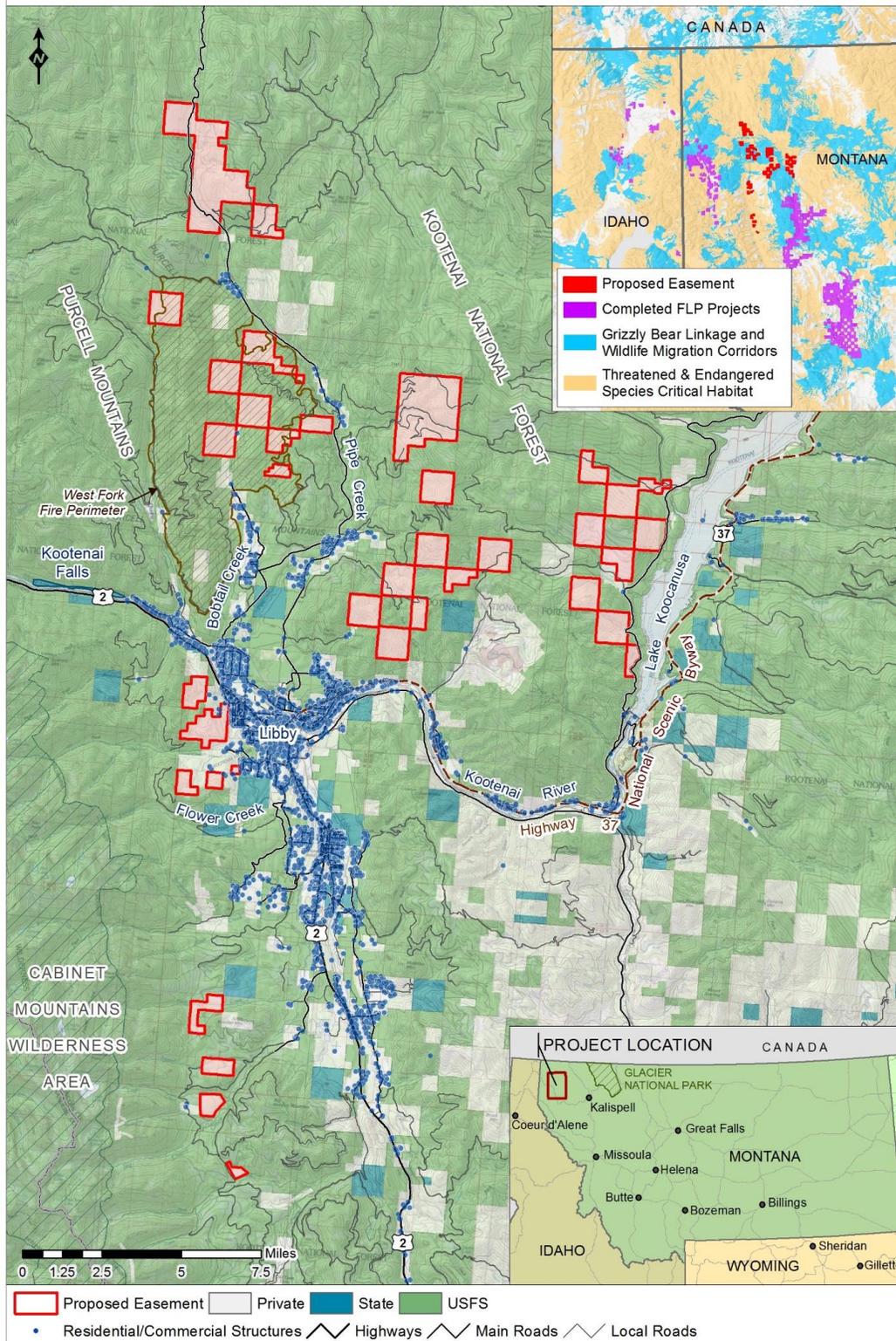


Figure 1. Project location map.

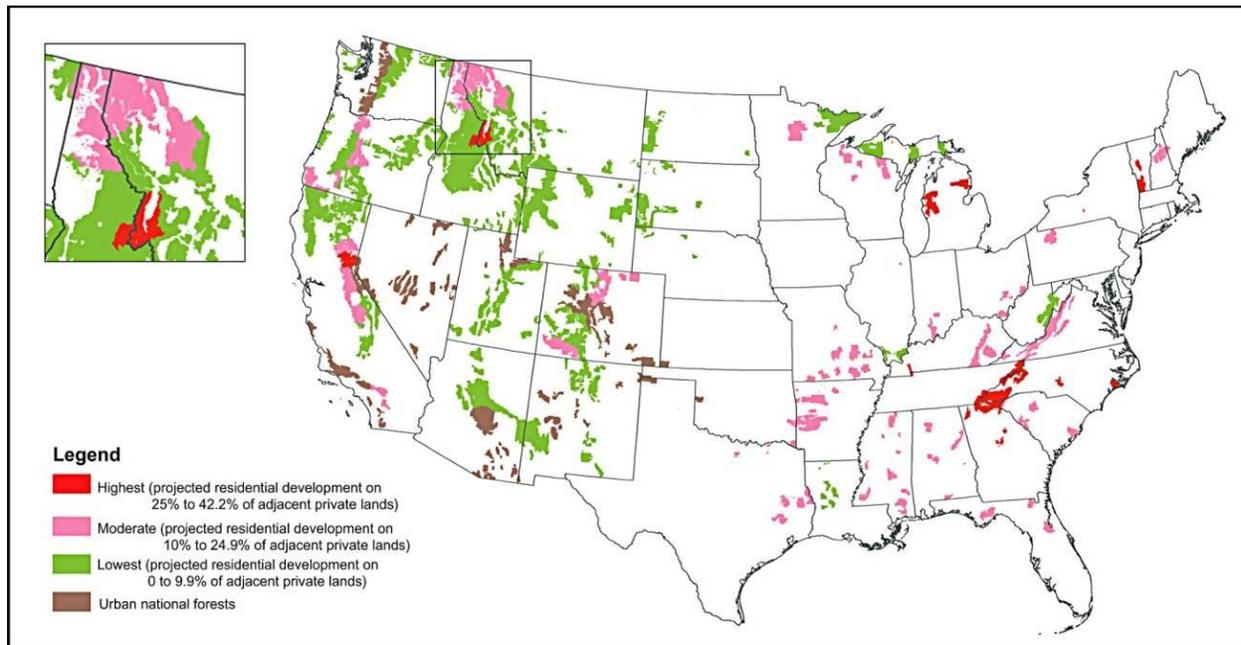


Figure 2. National forests and the risks from urban development on adjacent lands (USFS 2007).

1.2 FUNDING

The proposed Kootenai Forestlands Conservation Project would be funded using a \$6 million grant from the U.S. Forest Service (USFS) Forest Legacy Program (FLP). The other funding will come from a below market sale by the landowner and grant funding to be secured by TPL.

1.3 RELEVANT AUTHORITIES, RELEVANT DOCUMENTS, AND OVERLAPPING JURISDICTIONS

1.3.1 Authorities

Montana Department of Fish, Wildlife & Parks (FWP): FWP has the authority under state law (87-1-201 Montana Code Annotated [MCA]) to protect, enhance, and regulate the use of Montana's fish and wildlife resources for public benefit now and in the future. In 1987, the Montana Legislature passed HB526 which earmarked hunting license revenues to secure wildlife habitat through lease, conservation easement, or fee-title acquisition (87-1-241 and 242 MCA). The Habitat Montana Program, developed as a result of that legislation, provides direction to the Fish and Wildlife Commission for all of FWP's wildlife habitat acquisition programs (12.9.511 ARM).

Montana State Statutes: Section 76-6-201 MCA authorizes the application of conservation easements to protect "significant open-space land and/or the preservation of native plants or animals, biotic communities, or geological or geographical formations of scientific, aesthetic, or educational interest." Section 76-6-206 MCA provides for the review of proposed conservation

easements by local planning authorities to determine compliance with local growth policies. The proposed conservation easement was submitted to Lincoln County on April 3, 2019 for their review in accordance with this requirement.

1.3.2 Relevant Documents

1993 and 2018 Grizzly Bear Recovery Plan: The project area is identified as a core recovery area in the USFWS 1993 Grizzly Bear Recovery Plan (http://www.fws.gov/mountain-prairie/species/mammals/grizzly/Grizzly_bear_recovery_plan.pdf) and in the 2018 Recovery Plan Supplement: Habitat-based Recovery Criteria for the Northern Continental Divide Ecosystem (https://www.fws.gov/mountain-prairie/es/species/mammals/grizzly/20180516_SignedFinal_HBRC_NCDE_Grizz.pdf).

FWP Grizzly Bear Management Plan for Western Montana 2006-2016: The project area is identified as core recovery area in this document (<http://fwp.mt.gov/fwpDoc.html?id=25772>) as well as in the Conservation Strategy for Grizzly Bear in the Northern Continental Divide Ecosystem, July 2018 (<http://igbconline.org/wp-content/uploads/2018/07/NCDEConservationStrategyJuly3DT.pdf>).

2002 Bull Trout Recovery Plan and 2010 Revised Designation Critical Habitat for Bull Trout: Part of the project area, namely Pipe Creek, is identified as a critical bull trout recovery area in the USFWS's 2002 Draft Bull Trout Recovery Plan for the Columbia and Klamath River Basins and its 2010 Revised Designation of Critical Habitat for Bull Trout in the Coterminous United States (50 CFR Part 17). This same area of the project is also identified as core bull trout habitat by the Montana Bull Trout Restoration Team in FWP's 2000 Restoration Plan for Bull Trout in the Clark Fork River Basin and Kootenai River Basin (<http://www.fws.gov/pacific/bulltrout/recovery.html>).

2003 Montana Gray Wolf Conservation and Management Plan: A wolf pack has been denning on the project area for over a decade. FWP obtained full authority to manage wolves in Montana upon the federal delisting of the Rocky Mountain gray wolf in May 2011. In preparation of assuming authority, Montana, Idaho, and Wyoming were required to develop conservation and management plans and adopt other consistent regulatory mechanisms in state law. The plan met that requirement and guides FWP management of the species.

<http://fwp.mt.gov/fishAndWildlife/management/wolf/management.html>

2015 State Wildlife Action Plan: The project area supports conservation priorities set forth in Montana's 2015 State Wildlife Action plan. It is one of only 14 geographic terrestrial focus areas identified in the plan as in greatest need of conservation.

<http://fwp.mt.gov/fishAndWildlife/conservationInAction>

2007 MOU and Conservation Agreement for Westslope and Yellowstone Cutthroat Trout in Montana: The project area is occupied habitat for westslope cutthroat trout and a target for recovery efforts per a 2007 Memorandum of Understanding and Conservation Agreement for Westslope Cutthroat Trout and Yellowstone Cutthroat Trout in Montana that was signed by a

host of government agencies, non-profit organizations, and other stakeholders.
<http://fwp.mt.gov/fwpDoc.html?id=28662>

2009 Revised Designation of Critical Habitat for Canada Lynx: Much of the project area is identified as a core recovery area in the USFWS's 2000 Canada Lynx Conservation Assessment and Strategy, the 2005 Lynx Conservation Agreement between the U.S. Forest Service (USFS) and the USFWS, and the Revised Designation of Critical Habitat for the Contiguous United States Distinct Population Segment of the Canada Lynx. <http://www.fws.gov/mountain-prairie/species/mammals/lynx/criticalhabitat.htm>

2010 Montana State Assessment of Forest Resources: This assessment identified "critical landscapes" for identifying where federal funding for private forestry assistance would be most beneficial. It was based on an evaluation of eleven different criteria to identify "critical landscapes." The Project is located in an area that was rated as the highest priority for forestland protection in the 2010 Montana State Assessment of Forest Resources.
<http://dnrc.mt.gov/Forestry/Assistance/SARS.asp>

1.3.3 Overlapping Jurisdictions

Forest Legacy Program: The USFS Forest Legacy Program is one of several national programs established to promote the long-term integrity of forest lands. Specifically, the intent of the FLP is to identify and protect environmentally important private forest lands that are threatened by conversion to non-forest uses. The overall goal of the Montana FLP is to conserve and enhance land, water, wildlife, and timber resources while providing for the preservation of Montana's working forest land. The Forest Legacy Program requires acknowledgement of the funding source in the conservation easement and development of a multi-resource management plan (MRMP) that ensures sustainable forest management into the future.

Lincoln County Growth Policy (2009): The Growth Policy is an official County public document to help the public and elected officials identify goals and objectives, set priorities, and seek solutions to long term issues. The Lincoln County Growth Policy addresses six individual elements (Population and Economy, Housing, Land Use Natural Resources, Public Facilities, and Local and Social Services) and proposes an implementation strategy and action plan.

1.4 DECISION TO BE MADE

The decision that must be made is whether FWP *should move forward with the purchase of the proposed Kootenai Forestlands Conservation Easement on approximately 22,295 acres of Stimson Lumber Company land near Libby, Montana*. Following completion of the draft EA and review of the public comments received, the FWP Region One Supervisor will issue a decision notice that makes a recommendation to the FWP Fish and Wildlife Commission on a course of action. The Commission will make the final decision on which course of action, the Proposed Action or the No Action Alternative as described in Section 2.0 (Alternatives), will be followed.

1.5 EARLY PUBLIC INVOLVEMENT

FWP participated in a tour of the property with the Forest Legacy Program Subcommittee, part of DNRC's State Forest Stewardship Steering Committee, on August 15, 2017. The project received support from the subcommittee and the full Steering Committee.

FWP and TPL met with the Lincoln County Board of Commissioners on November 8, 2017 and received full support for the project from the Commission. The meeting was open to the public and FWP solicited initial public input for the project at that time. FWP and TPL also held a public open house from 5-7 pm following the meeting with the county commission to let them know about this project and to identify any potential issues (none were identified).

2.0 ALTERNATIVES

2.1 ALTERNATIVE A: PROPOSED ACTION

Under the Proposed Action, FWP would acquire a conservation easement on approximately 22,295 acres of scattered forestland parcels near Libby, Montana owned by Stimson Lumber Company. Stimson would continue to own and manage the land using sustainable forest practices while protecting the valuable fish and wildlife habitat found on the property and continuing to allow compatible public recreation opportunities.

The following is a brief summary of the rights each party would retain or receive under the terms of the proposed Kootenai Forestlands Conservation Easement. See Appendix A for a copy of the draft Kootenai Forestlands Conservation Easement.

For the proposed conservation easement, the landowner would have the following retained rights for the property:

- 1) The right to harvest and sell timber, timber products and other forest products or resources and to manage the Land including all aspects of commercial forestry in accordance with applicable law and with good and sound silvicultural practices as addressed in the Multi Resource Management Plan (MRMP);
- 2) Regulate public use of the property to address safety of the public, landowner or their contractors. Limitations on the timing, location or amount of public use must be described in the MRMP or approved by FWP prior to implementation;
- 3) Repair, renovate, remove, maintain, or replace nonresidential improvements existing at the time of the grant of this Easement, provided that such repair, renovation, maintenance, or replacement does not expand the size or utility of such nonresidential improvements;
- 4) Construct, remove, maintain, renovate, repair, or replace fences, timber platforms, corrals, and other structures necessary for land management purposes not specifically disallowed in this Easement;

- 5) Maintain and improve existing roads, bridges, trails, ditches, and culverts consistent with conditions and restrictions in the MRMP;
- 6) Construct and maintain new roads that are consistent with the MRMP and prior notice to FWP;
- 7) Construct or permit the construction of utility lines and pipelines within existing roads, or in other situations but then only with prior approval by FWP;
- 8) Use agrichemicals, fertilizers and biological agents for silvicultural purposes and for control of noxious weeds;
- 9) Control and be responsible for road access, maintenance, management, and use regulation; may, in its sole discretion, grant to third parties permanent or temporary access rights on roads existing at the time of the grant of the conservation easement; with prior approval from FWP, may grant to third parties permanent or temporary access rights for any lawful purpose on new roads constructed;
- 10) Extract sand, gravel, rock and road fill material for the construction and maintenance of roads on the property;
- 11) Allow and collect compensation for day use by commercial outfitters provided that the public also has the opportunity for concurrent recreational use.

FWP would acquire the following rights under the proposed conservation easement:

- 1) Enter the property to monitor compliance of the easement terms and rights to observe, study, and make scientific observations of the property's fish, wildlife, habitat, and ecosystems;
- 2) Establish and maintain vegetation monitoring transects and enclosures upon prior written notice;
- 3) Prevent any activity on or use of the land that is inconsistent with the conservation easement and require the landowner to restore any areas or features of the land that may be damaged by landowner uses or activities that are inconsistent with the conservation easement; and
- 4) Access to and on the land for noncommercial recreation on behalf of the general public.

The proposed conservation easement would also restrict:

- 1) Destruction, removal, control and manipulation of native vegetation except for forest management activities as allowed by the conservation easement;
- 2) Draining, filling, dredging, or destruction of any wetland area or any other activity that has significant adverse impacts on a wetland;
- 3) Future divisions of the property;
- 4) Construction of residential buildings or any other buildings or structures not specifically allowed for forest management on the property;
- 5) Withdrawal of surface or ground water except as necessary for emergency firefighting activities;

- 6) Rent, lease or sale of exclusive access to others for hunting, fishing, skiing, snowmobiling, or other recreational purposes, whether or not as a part of a commercial outfitting or guiding business;
- 7) Use of chemical and biological agents except as provided above;
- 8) Exploring for, developing, mining, producing or otherwise extracting any minerals, oil, natural gas, coal-bed methane or other hydrocarbon resources, whether on or under the surface of the project lands;
- 9) Use of the land for shooting preserves, wildlife propagation, and related activities;
- 10) Any commercial or industrial use not expressly permitted in the conservation easement; and
- 11) Disposal of waste or hazardous material.

Multi-Resource Management Plan (MRMP)

Stimson and FWP have also developed a Multi-Resource Management Plan (MRMP) (Appendix B), which describes those steps that Stimson must take to conserve environmentally important fish and wildlife habitat including such matters as managing vegetation along all waterways in addition to specific stream buffers, managing temporary and permanent roads, restrictions on sand and gravel extraction, managing seasonal public use and preserving special habitat features - all while allowing for continued compatible timber and other resource management activities. The MRMP is not incorporated into the conservation easement, but is a separate agreement, required by the conservation easement, and signed and acknowledged by Stimson and FWP.

The specific provisions in the MRMP are designed to be more flexible than the binding terms of the conservation easement. As science or management approaches change or if new landowners acquire the land, the MRMP language may also change. However, any changes to the plan must have the mutual consent of Stimson (or subsequent landowners) and FWP. The MRMP outlines conservation commitments for forest management; use of sand, gravel and rock; road management; aquatic connectivity; wildlife management; and recreational use.

2.2 ALTERNATIVE B: NO ACTION

If the project is not completed as proposed, Stimson would continue to own the property without any of the restrictions of the proposed conservation easement. They may, at some future time, change their public access policies or decide to sell some or all of these parcels, depending on company priorities and market conditions.

3.0 AFFECTED RESOURCES AND PREDICTED ENVIRONMENTAL CONSEQUENCES

3.1 WILDLIFE AND AQUATIC RESOURCES

The scattered project parcels are almost entirely surrounded by national forest land. The project area and the surrounding lands provide important, highly productive habitat for a wide range of

game and nongame species including elk, moose, mule deer, white-tailed deer, grizzly bear, wolf, black bear, fisher, Canada lynx, westslope cutthroat trout, Columbia Basin redband trout, and bull trout. This property is ranked by FWP as a conservation priority due to the possible presence of 43 of 85 species that are identified as species of greatest conservation need in Montana’s 2015 State Wildlife Action Plan (Table 1). The game species mentioned above also provide important local hunting opportunities on the property and the surrounding lands which are heavily used by area hunters. The project lands currently provide over 1,100 hunter days per year.

Table 1. *Terrestrial and Aquatic Species of Greatest Conservation Need that potentially occur on the property as listed in Montana’s 2015 State Wildlife Action Plan.*

torrent sculpin	pygmy shrew	evening grosbeak
Columbia Basin redband trout	Townsend's big-eared bat	flammulated owl
bull trout	wolverine	golden eagle
westslope cutthroat trout	American bittern	gray-crowned rosy-finch
western toad	black swift	great blue heron
Coeur d'Alene salamander	black tern	great gray owl
northern alligator lizard	black-backed woodpecker	harlequin duck
western skink	bobolink	horned grebe
fisher	boreal chickadee	Lewis's woodpecker
Canada lynx	Brewer's sparrow	long-billed curlew
fringed myotis	brown creeper	northern goshawk
grizzly bear	Cassin's finch	peregrine falcon
hoary bat	Clark's nutcracker	pileated woodpecker
northern bog lemming	common loon	varied thrush
		veery

Three of the species of greatest conservation need are also listed as threatened under the Endangered Species Act (ESA): grizzly bears, Canada lynx, and bull trout. The entire project area is occupied grizzly bear habitat and located within the USFWS Cabinet-Yaak Grizzly Bear Recovery Area. The northernmost parcels, by Flatiron Mountain, are considered some of the most important and sensitive lands within the recovery area. The Cabinet-Yaak grizzly bear population consists of less than 50 bears and, though currently listed as threatened, is warranted for ESA Endangered status. Preserving genetic linkage to neighboring populations by protecting migration corridors, such as this property, is critical to this population's survival. A recently published scientific study identified 60% of these lands as part of an international network of critical lands connecting these bears to four other small grizzly bear populations in British Columbia, northern Montana, northern Idaho, and northeastern Washington (Proctor et al. 2015).

The northern portion of project area (area north of Highway 2) is located within the Northern Rockies Critical Habitat Unit, designated by the USFWS as critical for the recovery of Canada

lynx. Bull trout spawn in Pipe Creek, a stream identified in the USFWS's 2010 Revised Designation Critical Habitat for Bull Trout and one of only four important spawning tributaries for this local population. The project lands consist of 42 miles of stream habitat, 480 acres of riparian habitat, and 331 acres of wetland habitat.

Proposed Action Alternative:

The Proposed Action would protect all fish and wildlife habitat on the property in perpetuity while allowing continued sustainable forest management. The conservation easement and associated MRMP would minimize the risk of harming fish and wildlife habitat values on the property, including important habitat for game species, species of greatest conservation need, and the three federally listed species on the property. This alternative also ensures that the land would never be subdivided for residential development or other uses that could possibly harm wildlife and aquatic resources.

No Action Alternative:

No immediate impacts would be likely to occur under the No Action Alternative. Stimson would retain ownership and the property could be sold in its entirety or in smaller parcels. Depending on the type of future use of the property, it could result in the loss or degradation of habitat for fish and wildlife species and potentially have impacts to water quality within the watershed.

3.2 VEGETATION

Forestland dominates the project area. It is a mixed conifer forest with all Montana commercial timber species represented. The Stimson project lands are dominated by montane forest habitats with a unique diversity of mixed conifers including subalpine fir, Douglas-fir, Engelmann spruce, grand fir, lodgepole pine, mountain hemlock, ponderosa pine, red cedar, western hemlock, western larch, and western white pine. Limited amounts of cottonwood and aspen can be found along creeks and near wetland areas and paper birch is evident on many north-facing slopes. The inventory of standing timber volume and sustainable harvest is likely to significantly increase over the next 10-30 years as these young trees that currently dominate the property mature. The timbered stands vary in age from young regeneration to commercial saw timber but most of the existing timber volume is dominated by young stands.

Because of past and ongoing weed management activities by Stimson and the previous landowners, Weyerhaeuser and Plum Creek Timber Company, there are only limited areas where noxious weeds are present; mostly occurring along existing roads on the project lands. Some of the noxious plant species that are present include knapweed, Canada thistle, and houndstongue.

Proposed Action Alternative:

The proposed conservation easement and associated MRMP would maintain current forest harvest levels in the near term, and continue other vegetation management efforts (fire suppression and weed control). Long-term harvest levels would increase commensurate with inventory and as young timber stands mature. Stimson practices sustainable forestry that manages long-term yield on a sustainable basis. Noxious weed control would be Stimson's

responsibility and they are likely to continue to apply chemical or biological agents in accordance with applicable laws.

Under the proposed conservation easement, livestock grazing would be permitted with prior approval from FWP and guided by the MRMP. Grazing would have to be conducted in a manner consistent with the protection and maintenance of the conservation values of the parcels.

No Action Alternative:

Under the No Action Alternative, timber management would continue as it is now unless market conditions change Stimson's priorities. The property may be sold for development or some other non-forest management use. Depending on the future use, forest and streamside vegetation could be severely reduced or eliminated in places to facilitate potential future developments.

3.3 SOILS

Lincoln County geography is dominated by mountainous, forest covered terrain cut by narrow river valleys. The topographic features of Lincoln County are the result of geological activity that began approximately one million years ago. Ice from continental or alpine glaciers covered the Lincoln Valley one or more times. The ice sheet eroded the valley sediments burying them under glacial materials in some areas and scoured bedrock in others (Lincoln County Growth Policy 2009).

Soil types, as identified by the Natural Resources Conservation Service, that are represented throughout the project lands at greater than 10% occurrence include: glaciated mountain slopes (*Andic Cryochrepts*); rock outcrop complex, glaciated mountain slopes (*Andic Dystrochrepts*); moraines (*Eutric Glossoboralfs*); glaciated mountain slopes (*Dystric Eutrochrepts*); moraines, dense, brittle substratum (*Andic Cryochrepts*); and dissected glaciated mountain slopes (*Andic Cryochrepts-Lithic Cryochrepts complex*) (USDA 2019). Other soil types exist on the project land, but at less than 10% of overall soil type.

Proposed Action Alternative:

There would likely be no changes to the existing soil conditions on the project lands under the Proposed Action Alternative. If anything, the soil resources would be more likely to be protected and preserved under these alternatives that limit future use of the property and ensure continued sustainable forest management practices.

No Action Alternative:

Under the No Action Alternative, there could be soil disturbance and impacts especially if the property were subdivided for housing or other commercial development. Most likely only the upper layers of soil would be disturbed under this scenario.

3.4 LAND USE

The project area is currently managed as commercial forest land and has been managed in a similar fashion for decades. Some of the adjoining national forestland has evidence of historic

mining activities, and it can be assumed similar activities occurred on the project lands. Non-motorized public use of the property is and has been allowed by Stimson and the previous landowners, Weyerhaeuser and Plum Creek Timber Company.

Proposed Action Alternative:

Land use is not expected to change on the project area. Timber management and public recreation would continue on the property.

No Action Alternative:

Depending on changing landowner priorities or desires of the future landowner, the property may no longer be managed for commercial timber use and public access could be denied.

3.5 SOCIOECONOMICS

Lincoln County is the northwestern most county in Montana. It encompasses 3,613 square miles. The county's population was 18,818 in 2000 is currently estimated to be 19,794 (U.S. Census Bureau 2018). The major economic growth of this area has been structured around natural resource extraction industries such as mining and forestry. Lincoln County has historically been one of the top timber producing counties in Montana. These industries have provided the backbone for economic stabilization up to the 1990s when major downturns took place (Lincoln County Growth Policy 2009). Other major industries include tourism and recreation. From 2005-2010, the unemployment rate changed from 7.4% to 15.6% within the county (DOI 2012), but is currently down to 12.8% (U.S. Census Bureau 2018).

The property's forest productivity is estimated at 4 million board feet of timber per year, which could support up to 20 full-time workers in the wood products industry, potentially generating up to \$5.25 million in economic activity for the area (MT Bureau of Business and Economic Research; US Department of Commerce). Outdoor recreation generates \$64 million in personal income for Lincoln County residents (Headwaters Economics 2018). The project area generates an estimated \$126,000/year in direct expenditures from big game hunting; while hiking, bird watching, snowmobiling, and other activities contribute to additional local spending.

The project lands consist of 22,295 acres scattered around Libby with over half the land more than 10 miles outside the city center. The majority of the development surrounding the City of Libby occurs in the narrow valley bottom between the steep mountain slopes of the area. Much of the project land is very steep and undevelopable; overall, approximately 3,100 acres or 14% of the property has 15% slope or less and would be potentially suitable for development, at least from a steepness of terrain perspective (Fig. 3). However, the majority of the developable lands are more than 10 miles outside of Libby.

Firefighting costs are often higher in forested areas that include scattered residential development. For example, the 2017 West Fork Fire burned 21,000 acres of Kootenai National Forest and private land with suppression costing approximately \$10 million. The high cost of suppressing this fire was partly due to nearby residential protection. These scattered parcels share 133 miles of border with the Kootenai National Forest.

Proposed Action Alternative:

The proposed project would help maintain timber industry jobs for local residents and support those associated businesses. Additionally, the proposed conservation easement would support the area's outdoor recreation industry by continuing to provide public access for hunting, fishing, hiking, mountain biking, snowmobiling and other recreational pursuits, which in turn, would positively impact the local outdoor recreation industry and associated businesses.

The conservation easement would not change the ownership of the property nor would it change the type of use on the property. Therefore, the purchase of a conservation easement on this land would not impact the current level of taxes paid to Lincoln County. However, it may preclude future increases in gross tax revenues if the land were to eventually be developed for residential or industrial uses precluded by the conservation easement.

An increasing number of homes and developments in the county have occurred in Wildland-Urban Interface areas, which increase the challenges faced by local services when wildfires occur or when wildlife-human conflicts occur. The proposed action would decrease the demand for those services in the future and the public costs associated with those services. Using figures from a current study, precluding residential development on these scattered parcels could reduce costs of firefighting by 50-95% and prescribed fire by 43% (Headwaters Economics 2013). It would also reduce human-wildlife conflicts that come with residential development of properties within wildlife habitat, especially those with grizzly bears, black bears, and mountain lions. Other services provided by local and state governments, including schools, would not be affected by this project since the land would remain a working forest and no residential development would occur. This project could positively affect future employment opportunities within the county if Stimson needs to hire more people for forest management purposes.

No Action Alternative:

Under the No Action Alternative, there would be no immediate change in property tax revenue for Lincoln County or economic benefits since the land uses may not change in the short term. However, if the property were to be sold and developed, property tax revenue to the county could increase, but a change to residential use could also result in additional costs for county services for such things as wildfire suppression, transportation upgrades and maintenance and emergency services for new residences. Also, the land may no longer be managed for commercial timber harvest and the associated revenue and timber industry jobs may be lost. Opportunities for public recreation access would also likely be lost, potentially decreasing activity associated with that segment of the economy. If some or all of the land were to be sold for residential development, an increase in demand for local services, including schools, may occur. It is also possible that if the property were used for something other than a working forest, that either an increase or decrease in demand for certain private businesses supplying goods and services to the community could occur depending on future use of the property. The same would be true for

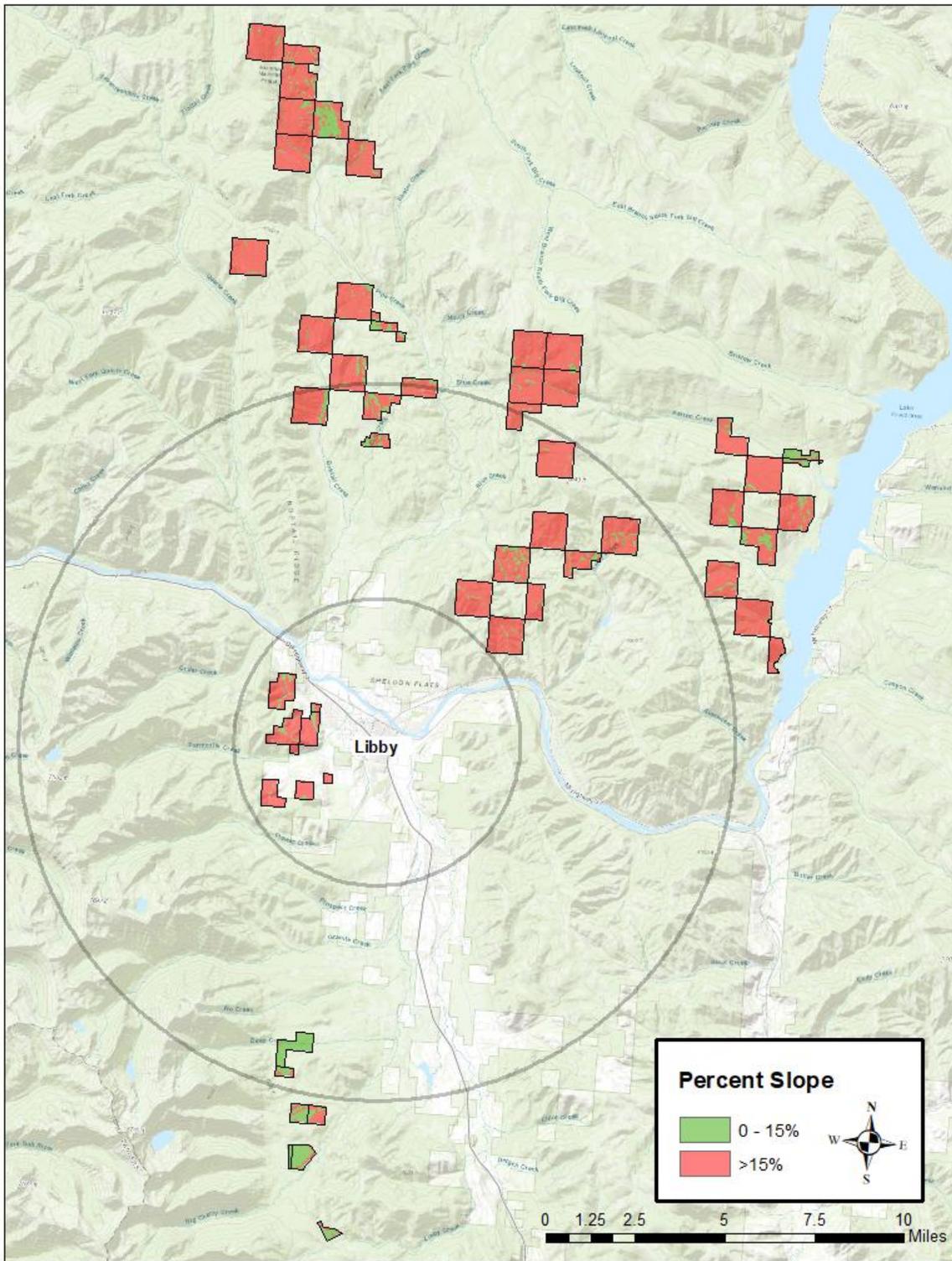


Figure 3. Project lands with 15% slope or less shown in green. The inner circle is 4 miles from the center of Libby and the outer circle is 10 miles outside the city center.

future employment opportunities within the county, they could increase or decrease depending on a change in future management of the property.

3.6 AESTHETICS AND RECREATION

The Stimson project lands and the surrounding Cabinets and Purcell Mountains are part of an exceptionally beautiful landscape. Portions of the property are visible from Hwy 37, a designated National Scenic Byway located along Lake Koocanusa and the Kootenai River, and traveled by 1,400 vehicles/day. Project lands offer panoramic views of the Cabinet Mountains Wilderness, with its rugged peaks and glaciated valleys. Project lands are part of a landscape and scenic viewshed that are marketed by Lincoln County and the Montana Tourism Council as "Rich, Rare, Remote;" distinguishing it from other busier tourist areas in the region. The lands surround the town of Libby and are an integral part of its scenic backdrop.

Extensive recreational opportunities abound within the Stimson project area. Various backcountry roads provide ready access to the project lands and surrounding Kootenai National Forest. Some areas are closed to motorized vehicles in order to protect wildlife and watershed values, instead offering recreational opportunities for non-motorized activities like hiking, wildlife viewing, berry picking, horseback riding, and mountain biking. Snowmobiling, snowshoeing, and backcountry skiing are also popular pursuits in the winter months. Hunting, trapping, and angling are favorite local pursuits in this area, with the project lands offering hunting opportunities for elk, mule deer, white-tailed deer, moose, black bear, mountain lion, gray wolf, and upland game birds.

Proposed Action Alternative:

The proposed conservation easement would maintain and enhance aesthetic and recreation values by protecting riparian zones and fish and wildlife habitat and maintaining public access. Although timber harvest and other resource extraction activities could continue as specified in MRMP, no residential or commercial development could occur. The conservation easement would help prevent the conversion of current working forestlands to non-forest uses and preserve the current scenic qualities and recreation opportunities.

The proposed easement would give the public the general right of access to the Stimson parcels in perpetuity for non-commercial recreation such as hunting, fishing, non-commercial huckleberry picking, trapping as defined in Montana regulations, and other recreation uses. As specified in the MRMP, no camping would be permitted on the property.

The proposed easement could authorize commercial recreation on the project lands but Stimson currently allows only non-commercial, public recreation opportunities. Any future provision agreed upon by the parties to allow commercial outfitting or other commercial recreational uses cannot be exclusive to permitted users nor reduce or diminish the public's general ability to access or utilize the property for dispersed recreation.

Motorized road access for public use may be limited for a variety of reasons such as wildlife security, prevention of sedimentation from logging roads, public safety and reducing the spread

of noxious weeds or other reasons that Stimson may deem necessary to maintain economic and ecological sustainability of their forest management activities. Stimson may restrict road use with gates, barricades, earthen barriers, and signs. Hikers, horseback riders, and mountain bikers would be allowed behind closed gates, barricades, and earthen barriers. All motorized vehicles, including, but not limited to, dirt bikes, ATVs, and snowmobiles would not be allowed behind closed gates, barricades, and earthen barriers.

Existing roads that cross through the Stimson parcels and are owned by other entities (i.e. Forest Service, County, etc.) would be unaffected by the conservation easement. Stimson would retain the right to grant third parties permanent or temporary access rights to cross the Land on roads existing at the time the conservation easement is purchased. However, FWP would be required to approve third party access rights on new roads constructed across Stimson land.

In the event of sale of the Stimson property to another landowner, the MRMP could be revised, but must provide at least equivalent recreation opportunity and conservation values, and these changes would have to be approved by FWP.

No Action Alternative:

Under the No Action Alternative, the aesthetics and recreation values of the property would not immediately change, but could be altered significantly in the future. The public may not be able to access any of this property in the future depending on future landowner priorities and/or how it is developed. Development could also impact the property's current viewshed qualities.

Note: The Montana Office of Tourism and Business Development produced a Tourism Report for this project which assesses the impacts this project would have to the tourism economy under both the Proposed Action and No Action Alternatives. Please see Appendix A for this report.

3.7 HISTORICAL AND CULTURAL

The project lands above the Kootenai River are part of an established Archaeological District with 54 prehistoric and 10 historic documented sites. The Kootenai River valley was an historic trade and travel corridor for linking the Pacific Northwest and the Great Plains. There are five federally-recognized American Indian nations with cultural affiliation on the Kootenai National Forest: the Kootenai Tribe of Idaho, the Kalispel Tribe, the Coeur d'Alene Tribe, the Spokane Tribe, and the Confederated Salish and Kootenai Tribes. Forest Service administered lands today occupies lands that was in traditional aboriginal territory. The aboriginal territory of the Kalispel, Coeur d'Alene, and Spokane Tribes, overlap with the territory now managed by the KNF, along the Clark Fork Valley with the territory used by the Kootenai Tribe of Idaho and the Confederated Salish and Kootenai Tribes. The entire Forest is within aboriginal territory for the Confederated Salish and Kootenai Tribes and the Kootenai Tribe of Idaho (USDA 2011).

The Kootenai Valley and surrounding mountains are an area rich in cultural history arising from pre-settlement tribes and, more recently, from miners, trappers, and loggers. Miners first arrived in 1886 in the area drawn by the reports of good galena prospects. Based on a Cultural Resources Information System report from the State Historic Preservation Office, numerous cultural

resource sites were identified within the greater project vicinity. These sites relate to historic roads or trails, historic mining, timber harvesting, and lithic material concentrations. Some of the identified sites may be located on project lands, but not all lands have been surveyed due to private land ownership. Based upon the presence of these sites, there is a potential for other cultural resources to occur in the area.

Proposed Action Alternative:

No impacts to existing cultural or historic resources on the Project property are likely under the Proposed Action Alternative. The project area would be permanently open and accessible to tribe members under the public access stipulations of the proposed conservation easements and would continue to support fish and wildlife populations that tribal members could enjoy under the terms of each tribe's specific treaty rights. No activities would be allowed that might impact cultural or historic resources on the property.

No Action Alternative:

Under the No Action Alternative, depending on future ownership, use, and potential development of the property, it is possible that any existing culture or historic resources could be impacted.

3.8 AIR, NOISE, AND ELECTRICAL

Existing noise levels are low and air quality is relatively good in the project area most of the time, depending upon weather conditions and wildfire events. Timber harvest activities can periodically affect ambient noise levels and burning of logging slash can occasionally impact air quality.

Proposed Action Alternative:

There would be no expected changes to existing air quality or noise levels within the project area under the Proposed Action Alternative.

No Action Alternative:

Under the No Action Alternative, depending on future use and development of the property, it is possible that air quality and noise levels increase or decrease depending on what type of development and the density of that development ultimately occurs on the property.

3.9 RISKS TO HUMAN HEALTH AND SAFETY

The project area is currently managed as a commercial forest that carries inherent risks to human health and safety associated with wildfire, logging, and commercial transportation. In addition, the entire area is used by the public for a multitude of recreational activities including motorized and non-motorized vehicle travel, hunting, trapping, snowmobiling, wildlife viewing, hiking, and berry picking. All these activities have some degree of risk associated with outdoor use and the use of various types of outdoor equipment.

Proposed Action Alternative:

There would be no expected increased risk to human health or safety on the project area under the Proposed Action Alternative.

No Action Alternative:

Under the No Action Alternative, depending on future use and development of the property, it is possible that risks to human health and safety could decrease due to less use by the public or risks could increase under some different future use such as expanded residential development in the forest.

3.10 CUMULATIVE IMPACTS

Proposed Action Alternative:

Completion of this project would contribute to a larger habitat and species conservation effort in Montana and adjacent Canadian provinces. In the last 15 years, over 300,000 acres in Montana, Idaho, British Columbia and Alberta have been permanently conserved through conservation easements or outright purchases in partnership with a variety of government agencies and private conservation groups.

The proposed project would help provide wildlife connectivity in a block of public and private land that stretches into Canada, a landscape that provides important habitat to wide ranging species such as elk, wolverine and grizzly bears, as well as the threatened Canada lynx and numerous other game and nongame species. This area includes Waterton-Glacier International Peace Park and large portions of the Flathead and Kootenai National Forests.

Additionally, the Project would complement millions of dollars invested in landscape conservation by the Forest Legacy Program (\$52 million), the U.S. Fish and Wildlife Service (\$27 million) and the Bonneville Power Administration (\$55 million) in northwest Montana to conserve important fish and wildlife habitats, provide for continued public enjoyment of the associated outdoor recreational opportunities, and maintain working forest landscapes.

The decision to place a conservation easement on approximately 22,295 acres of Stimson's forestland is basically a decision to permanently utilize this land for commercial harvest of forest products, fish and wildlife habitat, watershed values, and public recreational opportunities. Alternative economic uses of this land would be precluded by the conservation easement. Only 3,100 acres of developable land scattered across the project area, 14% of the property, would be precluded from any potential for future development because of this conservation easement. The cumulative impact of permanently protecting these 22,295 acres of forest land, in combination with the protections on the adjoining federal land, would be positive for fish and wildlife populations and public recreation opportunities in the area.

No Action Alternative:

In the short term, little change would be likely under the No Action Alternative. Stimson would continue their ownership and current land uses. However, without the conservation easement to

reduce the cost-basis of this property, commercial timber management may not remain a viable economic activity for the company, forcing Stimson to sell some or all of their land. What may happen under new ownership would depend on the motivations of the new owners and current economic conditions at the time of the sale.

4.0 ENVIRONMENTAL IMPACT STATEMENT DETERMINATION

Based on the significance criteria evaluated in this EA, is an EIS required? No. Although the proposed Kootenai Forestlands Conservation Project would affect approximately 22,295 acres in perpetuity, the proposed conservation easement would retain the timber management activities and public access on the entire property. Important wildlife and fisheries habitat that support local revenues generated from hunting and angling activities would also be preserved across the entire project area.

A limited number of minor impacts from the proposed action were identified in this assessment, as described previously. However, these impacts are considered to be minor. Based upon the above assessment, an EIS is not required and an environmental assessment is the appropriate level of review.

5.0 PUBLIC PARTICIPATION AND CONTRIBUTORS

5.1 PUBLIC INVOLVEMENT

The public will be notified in the following manners to comment on this Draft EA, the proposed action and alternatives:

- Two legal notices in each of these newspapers: *Flathead Beacon*, *Daily Inter Lake*, *The Western News*, *The Montanian*, and *Helena Independent Record*;
- Direct mailing to interested parties and those who provided input during scoping;
- Public notice on the Fish, Wildlife & Parks website: <http://fwp.mt.gov>.

The public comment period will extend for (30) thirty days beginning May 30, 2019. Written comments will be accepted until **5:00 p.m.** on **June 29**, 2019. Comments can be sent to:

Kootenai Forestlands Conservation Project Or ktempel@mt.gov
Montana Fish, Wildlife & Parks
Attn: Kris Tempel
490 N. Meridian Rd
Kalispell, MT 59901

Copies of this EA will be available for public review at FWP Region One Headquarters in Kalispell.

FWP has scheduled a public hearing **June 12, 2019 at 6:00 pm** in Libby at the **Libby City Hall, Ponderosa Room, 952 E. Spruce Street**, to provide interested organizations and private individuals an opportunity to ask questions about the proposed project and submit public comment.

5.2 CONTRIBUTORS

Montana Fish, Wildlife and Parks
Fish and Wildlife Division, Kalispell
Lands Unit, Helena
Habitat Bureau, Helena
The Trust for Public Land, Bozeman

6.0 ANTICIPATED TIMELINE OF EVENTS

Public Comment Period:	May 30 – June 29, 2019
Recommended decision to Fish and Wildlife Commission:	July 12, 2019
FWP Commission Review of Project & Decision:	August 15, 2019

7.0 PREPARERS

Kris Tempel, FWP Habitat Conservation Biologist, Kalispell, MT
Alan Wood, FWP Wildlife Science Program Supervisor, Kalispell, MT

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A – Tourism Report

B – Draft Kootenai Forestlands Conservation Easement

C – Draft Kootenai Forestlands CE Multi-Resource Management Plan

APPENDIX A: TOURISM REPORT

TOURISM REPORT

MONTANA ENVIRONMENTAL POLICY ACT (MEPA) & MCA 23-1-110

The Montana Department of Fish, Wildlife and Parks has initiated the review process as mandated by MCA 23-1-110 and the Montana Environmental Policy Act in its consideration of the project described below. As part of the review process, input and comments are being solicited. Please complete the project name and project description portions and submit this form to:

Jan Stoddard, Bureau Chief, Industry Services and Outreach
Montana Office of Tourism & Business Development
301 S. Park Ave, Helena, MT 59601

Project Name: Kootenai Forestlands Conservation Project

Project Description: This is not a site development project, it is only a project to place 22,295 acres of scattered parcels around Libby, MT under conservation easement. The terms of the conservation easement will prohibit development of the project lands in perpetuity and protect fish and wildlife habitat while allowing for continued forest uses of the property and public recreation access. The following information is taken from the draft Environmental Assessment that Montana Fish, Wildlife and Parks (FWP) is planning to release for public comment in late May:

Montana Fish, Wildlife and Parks (FWP) proposes the purchase of a conservation easement to protect approximately 22,295 acres of highly productive timberland and important fisheries and wildlife habitat in northwestern Montana around the City of Libby. The property is owned by the Stimson Lumber Company (Stimson), one of the oldest continuously operating integrated wood products companies in the United States with roots dating back to the 1850s. This conservation project is a collaborative effort involving Stimson, The Trust for Public Land (TPL), and FWP. The proposed conservation easement, to be held by FWP, would allow Stimson to retain these timberlands, preclude development, protect important wildlife habitat and key landscape connectivity, and provide permanent public access and associated recreational opportunities.

The property currently provides over 1,100 days of public hunting access. Hunting opportunities exist on this property for elk, white-tailed deer, mule deer, moose, black bear, mountain lion, wolf, turkeys, and forest grouse. The property provides high quality winter range for moose, elk, white-tailed deer, and mule deer. It also provides habitat for 43 Species of Greatest Conservation Need as listed in Montana's 2015 State Wildlife Action Plan and includes federally designated critical habitat for three threatened species: Canada lynx, grizzly bear, and bull trout. Completion of this project would permanently secure free public access for hunting, hiking, fishing, snowmobiling, cross country skiing, and other outdoor activities.

The project shares 133 miles of border with the Kootenai National Forest. In a 2007 study entitled "National Forests on the Edge," the U.S. Forest Service (USFS) identified national forests throughout the country facing the most increased risks and alterations from escalating housing development on private rural lands along their boundaries. The Stimson project lands were identified as a moderate risk area where development growth rates on adjacent private lands were projected to be between 10% and 25%. An increasing number of homes and developments in Lincoln County have occurred in unincorporated areas in Wildland-Urban Interface, which can strain the county's ability to provide wildfire protection services to these dispersed areas.

Would this site development project have an impact on the tourism economy?

NO

YES

If YES, briefly describe:

While, this project would not have any immediate impact on tourism in the area, it could affect outdoor recreational opportunities in the future if the project did NOT move forward. The public currently can access Stimson Lumber Company land for hunting, fishing, and other recreational uses. The conservation easement requires current and future landowners to keep the property open to the public for recreational purposes. Without the conservation easement, Stimson may sell off all or part of these lands and the next landowner may have very different ideas of how to manage the property. Public access, vital to resident and non-resident visitors, could be limited or completely excluded if this project does not move forward.

Does this impending improvement alter the quality or quantity of recreation/tourism opportunities and settings?

NO

YES

If YES, briefly describe:

While this project does not alter the quality or quantity of recreation/ tourism opportunities, it does maintain access to outdoor recreational opportunities on these lands through an extensive network of public roads. These are also some of the last undeveloped lands in the area.

Signature Jan Stoddard

Date: 5/28/19

2/93

7/98sed

**APPENDIX B: DRAFT KOOTENAI FORESTLANDS CONSERVATION
EASEMENT**

After recording return to:
Montana Dept. of Fish, Wildlife and Parks
Lands Unit
1420 East 6th Ave.
Helena, MT 59620-0701

KOOTENAI FORESTLANDS DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT (“Easement”) is granted this ____ day of _____, 2019 by **STIMSON LUMBER COMPANY** whose address is 520 S.W. Yamhill, Suite 700, Portland, Oregon 97204-1330 (hereinafter referred to as "Landowner"), to the **MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS**, whose address is 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701 (hereinafter referred to as "Department"). In this Deed of Conservation Easement, the Landowner and Department may be referred to collectively as “Parties,” or individually as a “Party.”

Exhibits to this Deed of Conservation Easement include the following:

- Exhibit A - Legal Description of the Land**
- Exhibit B - Map of the Land**
- Exhibit C - Restricted Zone**

I. RECITALS

A. The people of the State of Montana recognize the benefits of protecting forest land, watersheds, riparian corridors and conserving open space that provides habitat for native fish, wildlife and plant communities, while simultaneously managing commercial forests on the land, and have authorized the Department to acquire conservation easements by voluntary, cooperative means to conserve important habitat.

B. The Landowner is the sole owner of certain real property in Lincoln County, Montana (the “Land”), comprising approximately 22,294.95 acres and legally described in Exhibit A and depicted in Exhibit B, both of which are attached hereto and incorporated herein by this reference.

C. The Land has significant natural habitat, scenic and open space values as recognized in the Montana Open Space Land and Voluntary Conservation Easement Act, Montana Code Annotated (“MCA”) Section 76-6-101, et seq.

D. The Land provides significant benefit to the people of the State of Montana, Lincoln County, and the United States by preserving and providing the following important resources, in perpetuity, in compliance with Section 170(h)(4)(A) of the Internal Revenue Code and Sections 76-6-101, et seq., MCA.

1. The Land provides open space which maintains the rural, agricultural and natural scenic qualities of the area.

2. The Land has a history of forest management and maintaining the opportunity for a productive forest management program that sustains and enhances fish and wildlife habitat as encouraged and supported by the State of Montana and local land conservation policies adopted in Lincoln County, Montana.

3. The Kootenai River drainage, of which the Land is a part, has a predominance of corporate, state, and federal ownership, and has been traditionally used for commercial timber production and other commodity use, which constitutes an important element of the local and regional economy.

4. The Land provides views of a working forest landscape that are enjoyed by members of the general public traveling along Montana Highway 37 and several heavily used paved USFS roads, specifically Pipe Creek Road #68 and Forest Development Road #228, as well as the general public recreating on the Land and on surrounding public land administered by the Kootenai National Forest.

5. The Land provides exceptional wildlife habitat for a variety of species, including, but not limited to, grizzly bear, Canada lynx, wolverine, fisher, elk, mule deer, whitetail deer, black bear, moose, gray wolf, beaver, mountain lion, bald eagle, black-backed woodpecker, flammulated owl and numerous waterfowl species, many of which are listed as species of Greatest Conservation Need in Montana's State Wildlife Action Plan (2015).

6. The Land serves as a corridor for the movement of wildlife and plays a central role in ensuring wildlife linkages between the Purcell and Cabinet Mountains and other ecologically intact areas of the Rocky Mountains of the northern United States and southern Canada.

7. The Land encompasses perennial streams that are important to a variety of fish species, including, but not limited to, bull trout, westslope cutthroat trout, interior redband trout, mountain whitefish, and other aquatic species.

8. The Land provides important public recreational opportunities as encouraged and supported by the State of Montana, including hunting, trapping, fishing, hiking, cross-country skiing, and wildlife viewing.

The above uses are hereinafter collectively referred to as the "Conservation Values."

M. The Forest Legacy Program, administered by the U.S. Department of Agriculture, Forest Service (hereafter “Forest Service”) pursuant to Section 1217 of Title XII of the Food, Agriculture, Conservation and Trade Act of 1990 (16 USC Section 2103C) and created “to protect environmentally important private forest land threatened with conversion to non-forest uses,” has awarded a Forest Legacy grant to the Department for a portion of the appraised fair market value of this Easement. Landowners with completed conservation easements on their property have the long term responsibility for managing their land in a manner consistent with the purposes of the Forest Legacy Program and the terms specified in this conservation easement and Multi-Resource Management Plan (MRMP). The Forest Legacy Program requires that 75% of the land remain forested and the conservation values not impacted.

II. AGREEMENTS

In consideration of the sums paid by the Department and in further consideration of the recitals, mutual covenants, and terms contained in this Easement and pursuant to the laws of the State of Montana and in particular to the Open-Space and Voluntary Conservation Easement Act, §§76-6-101 through 76-6-211, Montana Code Annotated (MCA); the Department’s wildlife habitat acquisition authority, §§87-1-209 et seq., MCA; and Title 70, Chapter 17, MCA, Landowner grants and conveys to the Department and the Department accepts this Easement in perpetuity consisting of the following rights and restrictions over and across the Land.

A. PURPOSES

This Easement is being acquired in order to preserve, protect, and restore upon mutual agreement with the Landowner, in perpetuity, the Conservation Values of Land. In the interest of protecting such Conservation Values, Landowner and Department agree that the purposes of this Easement (collectively the “Purposes,” or individually a “Purpose”) are generally described as follows:

1. To effect the Purpose of the Forest Legacy Program, in accordance with the provisions of Title XII of the Food, Agriculture, Conservation and Trade Act of 1990 (16 U.S.C. 2103c), to protect environmentally important forest areas that are threatened by conversion to non-forest uses and therefore also protect important scenic, cultural, fish, wildlife, recreational resources and riparian areas. A further Purpose of the Forest Legacy Program and this Easement is to protect the Land’s capacity to produce economically valuable forestry products and to allow Landowner and its successors and assigns to continue to conduct commercial timber and resource management activities in a sustainable manner;

2. To perpetuate the Land as forest land; to ensure the opportunity for long term, professional management of the forest resources through forestry activities permitted hereunder; and to provide that commercial production of forest products is conducted in a manner compatible with the conservation of water quality, fish and wildlife habitat, recreation and other Conservation Values;

3. To provide to the Department, on behalf of the public, the right of reasonable access to the Land for public outdoor recreational uses as provided for in Paragraph II.C.4; and

4. Pursuant to the terms of §76-6-107, MCA, to prevent the Land preserved by this Easement as natural land from being converted or diverted to any use prohibited by Paragraph II.D of this Easement or to any use inconsistent with the terms, conditions, or Purposes of this Easement.

5. If one or more of the Purposes of this Easement may no longer be accomplished, such failure of Purpose shall not be deemed sufficient cause to terminate the entire Easement as long as any other Purpose of the Easement may be accomplished. The Department and Landowner recognize that changes in economic conditions, agricultural technologies, accepted grazing and forest management practices, and in the situation of the Landowner may result in an evolution of agricultural, silvicultural, and other uses of the Land, and such uses are permitted provided they are and remain consistent with the Purposes of this Easement.

B. DEPARTMENTS RIGHTS

The rights conveyed to the Department by this Easement are:

1. **Preserve and Protect.** To preserve, protect, and enhance by mutual agreement, in perpetuity, the Conservation Values subject, however, to the rights reserved by the Landowner in this Easement in Section C below, and further subject to all third-party rights of record in and to the Land that are not subordinated to the terms and conditions of this Easement.

2. **Access.** Upon prior notice to the Landowner, to enter upon and to inspect the Land; to observe, study, and make scientific observations of the Land's wildlife, wildlife habitat and ecosystems; and to establish and maintain vegetation monitoring transects and enclosures, all to assure that the Department's rights in the Land are maintained and all in a manner that will not unreasonably interfere with the use of the Land by the Landowner. The Department shall also have the right to enter the Land to enforce the rights granted to the Department in this Easement and Landowner expressly conveys to the Department a right of immediate entry onto the Land if, in the Department's sole judgment, such entry is necessary to prevent damage to or destruction of the Conservation Values protected by this Easement. Aside from the rights of access granted in this Paragraph and in Paragraph II.B.5., this Easement does not grant the Department, or the public, any rights to enter upon the Land.

3. **Injunction and Restoration.** To enjoin any activity on the Land or use of the Land which is inconsistent with the Purposes and terms of this Easement, or which may have a significant adverse impact on the Conservation Values, and to enforce the reasonable restoration of any Conservation Values that may be damaged by such activities.

4. **Markers.** To place and replace, during inspections authorized above, small markers to identify boundaries, corners, and other reference points on the Land. Landowner shall

not remove such markers without Prior Approval of the Department and without the Department's consent, which will not be unreasonably denied, as provided in Section II.H below.

5. Public Recreational Access. The right, on behalf of the general public, of access for the purpose of non-commercial dispersed recreation on the Land including but not limited to hunting, fishing, trapping, hiking, and wildlife viewing in accordance with the following terms and conditions and as detailed in the Multi-Resource Management Plan ("MRMP"). The Landowner and Department may authorize additional public uses of the Land through the MRMP.

- a. The public may hunt game animals and game birds of all sex and age classes in accordance with hunting regulations adopted by the State of Montana.
- b. The hunting seasons shall be set and may be changed from time to time by the State of Montana in accordance with Applicable Laws, regulations, and policies.
- c. The grant of hunting rights shall be deemed exclusive to the Department for the benefit of the public and are specifically conveyed pursuant to: (i) § 70-17-102(1), MCA, and thereby this grant creates a servitude running with the Land, and (ii) the Montana Open Space Land and Voluntary Conservation Easement Act, § 76-6-101 et seq., MCA, and thereby this grant creates a conservation easement for the purpose of protecting significant open-space land protected and preserved for recreational purposes under § 76-6-104(3)(a), MCA.
- d. The public may cross the Land to access adjacent publicly accessible land.
- e. Furthermore, the Department reserves the right to temporarily restrict the public's access to the Land as deemed necessary or appropriate to protect the Land, wildlife or wildlife habitat, or the public.
- f. Notwithstanding any provision that may be construed to the contrary, Landowner may deny access to anyone who is not conducting or has not in the past conducted themselves in a prudent, responsible, and safe manner and denial of access for this reason shall not be deemed preferential or discriminatory.
- g. The Landowner may participate in programs offered by the Department or other entities intended to reimburse or compensate the Landowner for the impacts of hunter or recreation use of the Land. However, the Landowner and the Department acknowledge that any such hunter or recreation impact program is administered separately from this Easement; that such program may or may not persist through time; that such program may or may not be offered for the Landowner's participation; and that nothing in this Easement provides any assurance that the Landowner will be offered the opportunity for or be accepted into any such program.

C. LANDOWNER'S RIGHTS

Landowner reserves to itself, its successors and assigns, all rights accruing from ownership of the Land, including the right to engage in or permit others to engage in all uses of the Land that are not expressly prohibited or restricted by this Easement and that are consistent with the Purposes of this Easement and the protection and maintenance of the Conservation Values of the Land. Without limiting the generality of the previous statement, and subject to the restrictions on Landowner's activities in this Easement, the following rights are expressly reserved and are consistent with this Easement. As specified in the following paragraphs, Landowner's exercise of certain of these rights is conditioned upon prior approval by the Department under the procedures provided for in Paragraph II.G. of this Easement (hereinafter referred to as "Prior Approval") and Landowner's exercise of other rights is subject to prior notice to the Department as provided for in Paragraph II.G. (hereinafter referred to as "Prior Notice"). Furthermore, Landowner's exercise of many of these rights is conditioned upon their adherence to the Multi Resource Management Plan ("MRMP"). The remainder of these consistent uses shall not be precluded, prevented, or limited by this Easement.

1. **Forest Management.** The right to harvest and sell timber, timber products and other forest products or resources and to manage the Land including all aspects of commercial forestry in accordance with applicable law (as defined below), with the restrictions outlined in Exhibit D; and with good and sound silvicultural practices as addressed in the MRMP as defined in Paragraph II.E. hereof. For Purposes of this Easement, the term "Applicable Law" shall mean any federal or state regulation, rule or law which may be in effect from time to time which regulates the harvest of timber or land management with respect to the Land, including, but not limited to, Title 77, chapter 5, part 3, MCA, and the associated Administrative Rules of Montana, Title 36, Chapter 11, Sub-chapter 3, governing forest practices in the streamside management zone, as the law and rules may be revised or amended from time to time, and "Best Management Practices for Forestry in Montana, March 2011" (the "BMPs"), as the same may be revised or amended from time to time. In addition, Landowner will harvest the timber and manage the Land and its resources in accordance with the MRMP required pursuant to the Forest Legacy Program and further described in Paragraph II.E of this Easement.

2. **Regulation of Public Use.** The right to regulate public use of the Land at all times subject to the public's recreational access described under Department's Rights in this Easement. The Landowner retains the right to temporarily restrict public use under special circumstances as required to protect and restore environmentally sensitive areas, sites damaged by public use or natural processes, or areas undergoing timber harvest or timber management activities such as reseedling or replanting; in emergency situations and for public safety reasons; and in other areas or circumstances where the Conservation Values could be adversely impacted by public use. Landowner must give Department written notice of areas closed to public use as soon as practical after such closure. Restrictions to protect and restore environmentally sensitive areas or to address circumstances where the Conservation Values could be adversely impacted by public use require mutual consent of the Landowner and the Department. Consent of the Department is not required to restrict motorized use of roads provided that non-motorized use is allowed.

3. **Structures and Improvements.** Landowner may:

- a. repair, renovate, remove, maintain, or replace nonresidential improvements existing at the time of the grant of this Easement, provided that such repair, renovation, maintenance, or replacement does not expand the size or utility of such nonresidential improvements; and
- b. construct, remove, maintain, renovate, repair, or replace fences, timber platforms, corrals, and other structures necessary for land management purposes not specifically disallowed in this Easement; and
- c. with Prior Approval, construct or place on the Land for temporary use a building or structure for resource-management purposes including but not limited to forest management, sand, gravel, or rock extraction, and road work. The temporary placement of equipment and machinery for log chipping, tree limbing or scaling, or otherwise preparing logs for loading or shipment from the Land is not deemed to be a "timber processing mill" except, however, such equipment or machinery may not be placed within the Restricted Zone as described in Exhibit D unless approved in writing by the Department. Any building allowed by this Paragraph II.B.3.c. must be removed from the property upon conclusion of the use for which the building was erected and the site reclaimed.

4. Roads, Road Maintenance, Road Easements, Trails, and Bridges.

Notwithstanding other provisions of Paragraph II.C.1. the Landowner:

- a. may maintain and improve existing roads, bridges, trails, ditches, and culverts consistent with conditions and restrictions in the MRMP. This right includes the right to abandon or reclaim roads that are no longer used;
- b. with Prior Notice to the Department, may construct and maintain new roads necessary for exercising rights retained by Landowner under this Easement that are consistent with the MRMP. Any proposed new roads not in accordance with the MRMP require Prior Approval by the Department;
- c. with Prior Approval from the Department, may construct and maintain new roads and bridges within the Restricted Zone;
- d. shall control and be responsible for road access, maintenance, management, and use regulation, subject to any maintenance, management and access provisions governing "cost-share" roads, as contained in separate agreements among the Landowner and cooperating federal and state agencies;
- e. may, in its sole discretion, grant to third parties permanent or temporary access rights to cross the Land on roads existing at the time of the grant of this Easement. Prior to issuing any such access rights, Landowner must give Prior Notice to the Department and also provide the Department with a copy of any access easement or agreement

granted to a third party. Documentation of roads existing at the time of the grant of this Easement may be established through the Easement Baseline Report provided for in Paragraph II.F. Nothing in this Easement may interfere with a third party exercising any right of legal access across the Land that was in effect at the time of the grant of this Easement; and

- f. may grant to third parties permanent or temporary access rights for any lawful purpose across the Land on new roads constructed with Prior Approval of the Department.

5. Use of Motorized Vehicles and Equipment. The right to use motor vehicles, forestry machinery and equipment, and to maintain log yards, in the ordinary course of Landowner's timber and resource management activities and in a manner consistent with Paragraph II.C.1.

6. Pesticide Application and Weed Management.

- a. Landowner shall have the right to use legally authorized pesticides (as defined by MCA 80-8-102), agrichemicals, and fertilizers for silvicultural purposes. Any pesticide use should be only in the amount and frequency necessary based on pesticide label use instructions and all applicable state and federal regulations concerning use to accomplish reasonable control of the targeted pest species.
- b. Weed Management. The right to use herbicides for control of noxious weeds, as defined by the state of Montana or other lawful authority with jurisdiction, and other invasive nonnative plants. Such use must be in the amount and frequency of application necessary to accomplish reasonable control of weeds, and in a manner that will minimize damage to native plants. The Landowner shall have the right to use biological control agents for weed control, provided that these biological agents have been approved for the specified use by appropriate governmental agencies.
- c. With Prior Approval, Landowner may use livestock on the Land to control noxious weeds or other invasive nonnative plants, or for other land management purposes.

7. Oil, Gas, or Mineral Exploration and Extraction. Subject to, and without limiting any obligations of Landowner under, Montana Code Annotated § 82-11-202, Landowner shall not mine or extract soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Landowner as of the date of this Easement or later acquired by Landowner, using any surface mining, subsurface mining, or dredging method; provided however, with Prior Approval, Landowner may conduct limited mining activity for materials (e.g., sand, gravel, rock) used for forestry operations on the Land where the extraction of materials used for such forestry operations is limited, localized, and does not harm the forestry uses of the Land.

With Prior Notice, the right to extract sand, gravel, and rock for on-site use through surface mining techniques in accordance with Applicable Law in no more than two (2) un-reclaimed locations on the Land not to exceed a combined total of two (2) un-reclaimed acres cumulative in size at any one time, provided that:

- a. Each excavation site is not within a 100-year flood plain area or less than eighty (80) feet from the boundary of any Streamside Management Zone;
- b. Any material extracted may only be used on the Land for purposes consistent with Landowner's reserved rights;
- c. Landowner shall control noxious weeds at the site;
- d. Landowner shall provide mulch or vegetative cover on all soil stockpiles each year to reduce soil erosion and infestation of noxious weeds;
- e. Landowner shall post a reclamation bond as required under Applicable Law;
- f. Landowner shall seed and reestablish cover vegetation which is native or is representative of adjacent perennial plant species;
- g. Landowner shall reclaim and revegetate roads no longer needed in forest or resource management using native species to the extent practicable and in a manner compatible with adjoining land uses; and
- h. The existing extraction sites will be identified in the Baseline Report.

If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this Easement is executed, and their interests have not been subordinated to the Easement, the Landowner must notify the Department as soon as practical after Landowner becomes aware of any proposed exploration or extraction activity by such third party, which is not subject to the terms of this Conservation Easement unless expressly subordinated thereto. Landowner and the Department shall confer to review the proposed activity and to determine proposals to best mitigate any potential impact on the Land and the Conservation Values of the proposed activities. Subject to Montana Code Annotated § 82-10-504, Landowner and the Department shall subsequently cooperate in an effort to encourage the third party to adopt recommended mitigating measures in the third party's exploration and development activities.

This Conservation Easement does not restrict any third parties owning or leasing any of the oil, natural gas, or any other mineral substances under the Land from a right of ingress or egress or prevent such third parties use and occupancy of the surface of the Land. Nothing herein shall require the Landowner to indemnify the Department for exploration or extraction activity by any third-party mineral interest owner.

8. Other Resource Extraction. In accordance with Applicable Law, the right to harvest or extract from the Land any other resources not specifically defined herein, so long as

such harvesting or extraction activities are not inconsistent with the Purposes of this Easement and further provided that such activities receive Prior Approval.

9. Habitat Enhancement and Restoration. The Landowner reserves the right to manipulate vegetation, conduct stream restoration projects, or engage in other habitat enhancement or restoration activities, provided that any such activity must be for the primary purpose of enhancing or maintaining fish and wildlife habitat, and such activity must be in accordance with the MRMP. If any such activity is not contained in the MRMP or otherwise specifically allowed herein, then Prior Approval by the Department is required.

10. Telecommunications Sites. The right to lease not more than two (2) total sites no larger than four (4) cumulative acres on the Land for the purpose of the construction and use of radio, television, cell phone or other communication signal transmission or relay facilities. Access roads to these sites must be gated and the sites must be fenced to exclude deer, elk, and bear. Landowner shall provide a copy of the lease to the Department. Any road construction necessary for installation and maintenance of the telecommunication facility must be consistent with conditions and restrictions in the MRMP.

11. Cross-Country Ski Trails. The right to lease or enter into license agreements permitting existing roads on the Land to be groomed and used at no cost by the general public for cross-country skiing use providing access to the trails in the Kootenai National Forest.

12. Outfitting and Commercial Recreation. The right to allow non-exclusive use by commercial outfitters at levels described in the MRMP. “Non-exclusive use” means that the public also has the opportunity for recreational use, consistent with the terms of this Easement and the MRMP in the areas of the Land used by outfitters.

13. Subdivision and Real Property Conveyance. The Landowner and the Department agree for the purposes of this Easement that subdivisions of and conveyances of the Land shall specifically meet the following requirements:

- a. The Land may be sold, conveyed, exchanged, mortgaged, quit-claimed, devised, gifted or otherwise transferred (such actions all termed a “transfer”) in its entirety or in up to 7 separate parcels, provided that such parcels be conveyed expressly subject to all the terms, conditions, rights, restrictions, and obligations contained in this Easement, and further that any other parcel designation existing at or subsequent to the date of the conveyance of this Easement, including but not limited to government lots, aliquot parts, and certificates of survey, are considered to be an integral part of the unit within which they are located. At no time in the future shall the Land be held by more than seven landowners, with no more than one MRMP per parcel.
- b. Notwithstanding any other provision of this Paragraph II.C.13., transfer of a portion of the Land to a federal or state agency for ownership and management as public land is permitted and does not constitute a division or transfer under the limits provided in Paragraph II.C.13.a.

- c. The Landowner shall provide Prior Notice to the Department of any pending real property transfer, and such transfer must be effected with an express provision in the instrument of conveyance stating that the Land is subject to the terms and conditions of this Easement. The Department may provide a copy of the Easement and any related documents to the purchaser or other prospective successor in interest to the Landowner.
- d. In the event that the Land is divided into separate ownerships as provided for in this Paragraph II.C.13, the conveyance document must specify which of the ownerships retains any remaining right for gravel pit development as provided for in Paragraph II.C.7. and any remaining telecommunication sites as provided for in Paragraph II.B.10. Landowner shall furnish the Department with a copy of the conveyance document utilized to effect the transfer of the Land within thirty (30) days of the execution of said document, and the Department shall record in the Public Records of Lincoln County a “Notice of Exercise of Reserved Development Right Under Deed of Conservation Easement” to document the exercise of such rights and the future allocation of any remaining such rights for the benefit and information of the Landowner, the Department, and the public.
- e. Subsurface mineral rights severed prior to the grant of this Easement do not constitute a prohibited or restricted division or subdivision for purposes of this Paragraph.
- f. The restrictions on land division and subdivision contained in this Paragraph do not apply to the right to sell stumpage, as long as the timber rights are not permanently severed.
- g. The Land may not be used as open or natural space or park land for any subdivision or development purposes or requirements on land not covered by this Easement, nor may Landowner transfer any development rights on or to the Land separate from the Land. For Purposes of this Easement, development rights include, without limitation, all rights, however designated, now or hereafter associated with the Land or any other property that may be used to compute development density, lot yield, or any other development variable of or pertaining to the Land or any other property.

14. Water Rights. With Prior Approval, Landowner may transfer, lease, donate, sell, or otherwise dispose of water rights appurtenant to the Land for the express purpose of protecting or enhancing in-stream flows intended to benefit fisheries in waterways. Known water rights existing at the time of the execution of this Easement are listed in Exhibit C.

15. Utilities.

- a. Existing Utilities. Landowner retains the right to maintain, repair, and upgrade utilities existing on the Land at the time of the grant of this Easement, including utility structures, lines, conduits, cables, wires, and/or pipelines (“Utilities”).

- b. **New Utilities on the Land.** Subject to Prior Approval, Landowner retains the right to install and construct new Utilities upon, over, under, within, or beneath the Land to existing and subsequently constructed structures and improvements that are expressly permitted on the Land by this Easement. The Department will require the Landowner to submit a Utility Plan as outlined in Paragraph II.C.15.d. (“Utility Plan”) below.
- c. **New Utilities Serving Adjacent Properties.** Subject to Prior Approval, the Landowner retains the right to construct new Utilities and grant any associated Utility right-of-way easement serving adjacent properties. The Department will require the Landowner to submit a Utility Plan as outlined in Paragraph II.C.15.d. below.
- d. **Utility Plan.** Prior to preparation of the Utility Plan, the Landowner shall contact the Department to obtain the required information for inclusion in the Utility Plan. Landowner and the Department will mutually determine the completeness of the Utility Plan and its adherence to the general and specific intentions of this Easement prior to the Department’s approval of the Utility Plan. Any new and expanded Utilities and associated right-of-way easements must be memorialized in a written agreement that is recorded in the public records of affected counties, signed by the Landowner, the Department, and the utility service provider prior to construction.

If Landowner has received notice of a pending condemnation action from an appropriate authority, the provisions of Paragraph II.J apply.

16. Grazing. With Prior Approval, the right to raise, pasture, and graze livestock, and the right to lease pasture to another agricultural operator to raise, pasture, and graze livestock. Prior to any grazing, the parties will jointly develop a grazing management system as part of the MRMP.

D. RESTRICTIONS ON LANDOWNER'S ACTIVITIES

The following activities and uses are expressly prohibited or restricted:

- 1. Timber Harvest in the Restricted Zone.** Timber harvest, use of mechanical equipment off of established roads, or conducting timber-management activities within the Restricted Zone is prohibited unless conducted as provided for in Paragraph II.C. and in compliance with the provisions of the MRMP.
- 2. Wetland Areas.** The draining, filling, dredging, or destruction of any wetland area or any other activity that has significant adverse impacts on a wetland is prohibited except as provided for in Paragraph II.C. and in compliance with the provisions of the MRMP.
- 3. Subdivision.** The partition, division, subdivision or de facto subdivision of the Land is prohibited, except as specifically provided for in Paragraph II.C.13.
- 4. Residential Use.** Residential use of the Land and the construction or placement of any residential building or structure on the Land is prohibited.

5. **Water Use and Water Rights.** The use or withdrawal of surface or ground water in any manner that would adversely affect the Conservation Values is prohibited. The transfer, encumbrance, sale, lease, or other separation of water rights from the Land except as provided for in Paragraph II.C.14. is prohibited.

6. **Soil Cultivation.** Cultivation of the Land is prohibited, except as provided in Paragraph II.C.9., or in the MRMP.

7. **Lease or Sale of Access.** The rent, lease or sale of exclusive access to the Land to others for hunting, fishing, skiing, snowmobiling, or other recreational purposes, whether or not as a part of a commercial outfitting or guiding business, is prohibited. Charging fees for exclusive recreational use on the Land is prohibited. The Landowner may not sell, assign, convey, or otherwise transfer any interest in the Land or in itself for the purpose of providing exclusive access to the Land in contravention of this Easement.

8. **Utility Installation and Pipelines.** Subject to existing utility and pipeline easements and except as provided for in Paragraph II.C.15, the installation of utility lines upon or under the Land is prohibited.

9. **Structures and Improvements.**

- a. The construction or placement of a structure or improvement of any kind is prohibited, other than as expressly allowed in Paragraph II.C.3.
- b. The Landowner may not construct or place any residential building on the Land.
- c. The Landowner may not construct or place any permanent building on the Land.
- d. The Landowner may not construct or place a timber processing mill on the Land.

10. **Grazing.** Grazing of livestock is prohibited except as provided for in Paragraph II.C.16.

11. **Shooting Preserve, Wildlife Propagation and Related Activities.** The use of the Land as a game farm, game bird farm, shooting preserve, fur farm, zoo or menagerie, or in connection with the ownership, leasing, keeping, holding, capture, propagation, release, introduction, or trade in any animal that may pose a genetic or disease threat to any mammalian, avian, reptilian, aquatic or amphibian wildlife species, whether or not indigenous to Montana, is prohibited. This prohibition does not apply to common domestic livestock, or to the introduction, transplantation or release of fish or wildlife species on the Land by the Department, which must have the consent of the Landowner for any such introduction, transplantation or release on the Land. Domestic livestock is allowed per Paragraph II.C.16.

12. **Mineral Development.**

Except for the surface extraction of sand, gravel, and rock, all as provided for in Paragraph II.C.7., the Landowner is prohibited from exploring for, developing, mining, producing or otherwise extracting any minerals, oil, natural gas, coal-bed methane or other hydrocarbon resources on or under the surface of the Land. Landowner is also prohibited from conveying any interest in mineral rights to another party for purposes of mineral exploration, development, production or extraction.

13. Other Commercial and Industrial Use. Any commercial or industrial use of or activity on the Land is prohibited, other than those specifically allowed in this Easement. For Purposes of this Easement, trapping of furbearing wildlife as regulated by the Department is considered a recreational activity and is not a commercial use.

14. Waste Disposal. The processing, dumping, storage or other disposal of waste, refuse and debris on the Land is prohibited, except for wood waste products generated through forest management activities on the Land, which may be disposed of on the Land in a manner consistent with forestry best management practices and the Montana Streamside Management Zone law.

15. Telecommunications Sites. Telecommunications sites are prohibited except as provided for in Paragraph II.C.10.

16. Ecosystem Services. The Landowner may engage in ecosystem services markets under other programs, but such action must not adversely affect the interest granted under the easement to the Department or the Department's right of enforcement or be inconsistent with or defeat the conservation Purpose for which the Easement was acquired.

No agreements relating to ecosystem service markets shall be made regarding the Land that is or is likely to become inconsistent with the Forest Legacy Program purposes, terms of the Easement, or other documents incorporated by reference. If the Landowner wishes to enter into such an agreement, they must notify the Department of the Easement of any proposed participation in ecosystem service markets the owner deems compatible with the Purposes and Terms of the Easement and related documents and explain why they believe market participation is compatible. The Department will determine the compatibility of the market participation. As needed and appropriate to make the determination, the Department will consult with the USDA Forest Service. If it is determined to be compatible, the Department will provide an approval and authorization letter to the Landowner and include the letter and ESM participation documentation as an attachment to the current Multi-Resource Management Plan. The Department may review and monitor all ecosystem service market participation for compatibility with FLP purposes and requirements.

E. MULTI-RESOURCE MANAGEMENT PLAN AND LIAISON TEAM

The Landowner and the Department shall enter into a MRMP that identifies Landowner's objectives and actions the Landowner will take to protect and manage soil, water, range, aesthetic quality, recreation and public access, timber, and fish and wildlife habitat and resources. The

MRMP is not incorporated into this Easement but must be in writing and signed and acknowledged by representatives of Landowner and the Department who have authority to commit the respective Parties to compliance with the MRMP. The Landowner will comply with the MRMP.

The Landowner's resource management and timber harvesting practices that comply with the MRMP are consistent with the terms, conditions, Conservation Values, and Purposes of this Easement.

Landowner and the Department shall form a joint liaison team (the "Liaison Team") consisting of not more than two (2) representatives of Landowner and two (2) representatives of the Department. The Liaison Team will provide a forum to review issues related to this Easement and will prepare and, as agreed upon, revise the MRMP. The Liaison Team shall meet not less than once a year as the members shall determine. If the Land is held in two (2) or more parcels as provided for in Paragraph II.C.13.a., each Landowner shall appoint its own Liaison Team members. Liaison Team meetings shall include the Department and all Landowners, unless other arrangements are mutually agreed upon.

The Liaison Team shall review and, when appropriate, amend the MRMP. Any amendment to the MRMP must be in writing and must have the signed consent and acknowledgment of all Parties. If there is any inconsistency between the terms of the MRMP, the terms of this Easement control. The Department will keep a current MRMP in its files at all times.

The Landowner may not convey the Land or any portion thereof unless the successor in interest has executed with the Department a MRMP that will come into effect upon the conveyance. The successor in interest may sign and acknowledge the MRMP that is in effect at the time of the transfer of ownership or, upon agreement with the Department, may sign and acknowledge a revised MRMP.

F. EASEMENT BASELINE REPORT

The Parties agree that an Easement Baseline Report (the "Report") will be completed by a natural resource professional familiar with the area, reviewed by the Department and Landowner, and acknowledged by them to be an accurate representation of the physical and biological condition of the Land and its physical improvements as of the date of the conveyance of this Easement. In the event a controversy arises with respect to the nature of the biological and/or physical condition of the Land and its improvements, the Parties may use the Report, as well as all other relevant or material documents, surveys, reports, or other information to assist in the resolution of the controversy.

G. NOTICES AND PRIOR APPROVAL

1. Whenever Prior Notice is required under this Easement, Landowner must notify the Department as provided for in this Section in writing not less than thirty (30) days prior to the date the Landowner intends to undertake such activity, unless, for safety reasons, a shorter period is necessary in which case Landowner shall give Grantees as much notice as is possible under the

To Department: Administrator, Fish and Wildlife Division
Department of Fish, Wildlife & Parks
1420 E. Sixth Avenue
P.O. Box 200701
Helena, MT 59620-0701

With a copy to: Supervisor of Region 1
Department of Fish, Wildlife & Parks
490 North Meridian Road
Kalispell, MT 59901

or to such other address as either party from time to time shall designate by written notice to the other. All notices which are so addressed and paid for shall be deemed effective when personally delivered, or, if sent by courier or mailed, electronic mail, on the earlier of receipt or five (5) business days after deposit thereof with a courier or mail service, return receipt requested.

H. REMEDIES FOR UNAUTHORIZED USES AND PRACTICES

1. If the Department determines that the Landowner has violated the terms of this Easement, or if the Landowner undertakes any activity requiring approval of the Department without first obtaining such approval, the Department shall give written notice to the Landowner of the violation and demand corrective action sufficient to cure the violation, and, when the violation involves injury to the Land resulting from any use or activity inconsistent with the terms of this Easement, to restore the portion of the Land so damaged. If the Landowner:

fails to cure the violation within sixty (60) days after receipt of notice from the Department;

under circumstances where the violation cannot reasonably be cured within a sixty (60) day period, fails to begin curing the violation within the sixty (60) day period (or, within sixty (60) days of Landowner's receipt of notice from the Department, if Landowner fails to agree with the Department in writing on a date by which efforts to cure such violation will reasonably begin), or

fails to continue diligently to cure such violation until finally corrected, the Department may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement. The Department may seek to enjoin the violation, by temporary or permanent injunction, to require the restoration of the Land to the condition that existed prior to any such injury, and, if restoration is not possible to fully compensate for injury to the Conservation Values, to recover monetary damages to which it may be entitled for violation of the terms of this Easement.

2. If the Department, in its sole discretion, determines that a violation is threatened or imminent or that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, the Department may pursue its remedies under this Paragraph without prior notice to the Landowner or without waiting for the period provided for cure to expire. The Department shall provide reasonable notice to Landowner of any such action within a reasonable time thereafter.

3. The Department's rights under this provision apply equally in the event of either actual or threatened violation of the terms of this Easement. The Landowner agrees that the Department's remedies at law for any violation of the terms of this Easement are inadequate. Accordingly, the Department is entitled to injunctive relief and to require the restoration of the Land and/or terms of this Easement to the condition that existed prior to any such event. The Department's remedies described in this Section are cumulative and are in addition to all remedies available at law or in equity.

4. Nothing contained in this Easement may be construed to entitle the Department to bring any action against the Landowner for any injury to or change in the Land resulting from causes beyond the Landowner's control, including, without limitation, fire, flood, storm, and natural earth movement, or from any prudent action taken to prevent, abate, or mitigate significant injury to the Land resulting from such causes.

5. Enforcement of the terms of this Easement is at the discretion of the Department, and any forbearance by the Department to exercise its rights under this Easement in the event of any breach of any term of this Easement by the Landowner may not be deemed or construed to be a waiver by the Department of that term or of any subsequent breach of the same or any other term of this Easement. No delay or omission by the Department in the exercise of any right or remedy upon any breach by Landowner may impair the right or remedy or be construed as a waiver, nor may any forbearance or delay give rise to a claim of laches, estoppel or prescription.

6. Costs of restoration of the Conservation Values that are attributable to Landowner's violation or breach of the terms of this Easement shall be borne by Landowner, unless a court orders otherwise or unless the Parties mutually agree to share such costs. In the event of such litigation to enforce the terms of this Conservation Easement, each Party shall bear its own costs and attorneys' fees and costs.

7. If a dispute arises between Landowner and the Department concerning interpretation of the meaning of this Easement or concerning the consistency of any proposed use or activity with the terms or Purposes of this Easement, and if Landowner agrees in writing not to proceed with the use or activity pending resolution of the dispute, either Landowner or the Department may refer the dispute to mediation by request made in writing to the other Party. Within ten (10) days of receipt of such referral, Landowner and the Department will select an impartial mediator who shall conduct the mediation and thereby assist the Parties in resolving the dispute cooperatively. Each Party shall pay an equal share of the mediator's fee. In referring any matter arising under this Easement to mediation, Landowner and the Department agree that

mediation offers an alternative to the expense and time required to resolve disputes by litigation and is therefore often preferable to litigation. Nevertheless, mediation pursuant to this Paragraph shall be voluntary, and this mediation provision shall not be interpreted as precluding or limiting the Parties from seeking legal or equitable remedies available under this Section II.

I. HOLD HARMLESS AND INDEMNITY

1. The Landowner shall hold harmless, indemnify, and defend the Department and its employees, agents and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including without limitation, reasonable attorneys' fees and costs, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter related to or occurring on or about the Land, unless due to the negligence or willful misconduct of the Department or its agents, employees or contractors.

2. The Department similarly agrees to hold harmless, indemnify and defend the Landowner and its officers, directors, employees, agents and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including without limitation, reasonable attorneys' fees and costs, arising from or in any way connected with injury to or the death of any person or physical damage to any property, resulting from any action, omission, condition or other matter related to or occurring on or about the Land, as a result of the Department's exercise of its rights granted under this Easement, unless due to the negligence or willful misconduct of the Landowner or its officers, directors, agents, employees or contractors.

J. TERMINATION, EXTINGUISHMENT, CONDEMNATION, REIMBURSEMENT

The Parties agree that the Land includes important species, habitat, and other important ecosystem attributes. Conservation Values and the public benefits that are provided by this Easement may periodically fluctuate or trend toward long-term change, due to natural events such as wildfire, floods, interdecadal climate events, and long-term climate change, as well as human-initiated enhancement or restoration actions. In response to such changes, one or more of the Purposes of this Easement may not be able to be fully accomplished, or one or more of the Conservation Values of this Easement may not be able to be fully protected or achieved. If one or more of the Purposes of this Easement can no longer be fully accomplished, or if one or more of the Conservation Values of the Land cannot be fully achieved, such failure shall not be deemed sufficient cause to terminate this Easement so long as any of the other Purposes of the Easement may be accomplished and any of the Conservation Values may be achieved.

“The provisions of this Section shall apply notwithstanding, and in addition to, any other conditions or limitations that may be imposed on the transfer, amendment, or extinguishment of this Easement.”

1. **Transfer.** This Easement may be transferred or assigned only (i) to a government entity that (a) is eligible to hold this Easement under the Forest Legacy Program (FLP), (b) is willing and able to hold this Easement for the Purpose for which it was created, and (c) expressly agrees to assume the responsibility imposed on the holder by the terms of this Easement and (ii) with the consent of the Department. If the Department ceases to exist or is no longer willing and able to hold this Easement for the Purpose for which it was created or carry out the responsibility imposed on the holder by the terms of this Easement, the Montana Department of Fish, Wildlife and Parks must identify and select an appropriate entity to which this Easement must be transferred.

2. **Amendment.** This Easement may be amended only with the written approval of the Montana Department of Fish, Wildlife and Parks program manager, and they are under no obligation to agree to any amendment or consult or negotiate regarding any amendment. An amendment may be approved by the Montana Department of Fish, Wildlife and Parks and the USDA Forest Service FLP Northern Region program manager only if it will (i) serve the public interest and not diminish the benefits provided to the public, (ii) have a beneficial or neutral effect on the conservation values protected by this Easement, (iii) be consistent with the Purpose of the FLP and the Purpose of this Easement, (iv) not confer an economic benefit on private persons (private inurement or private benefit in the case of a charitable organization holder), (v) be consistent with the intent of the original grantor of this Easement and any funding entities, (vi) not diminish the perpetual duration of this Easement or negatively affect the status or rights of the Easement Holder, or the United States with regard to this Easement, and (vii) otherwise comply with all applicable federal, State, and local laws and regulations. Amendments to make boundary line adjustments are permitted only in the case of technical errors made in the survey or legal description, or to improve or maintain the integrity of the Conservation Easement. Any approved amendment must be recorded in the appropriate local land use records and a copy of the recorded amendment must be provided to the Montana Department of Fish, Wildlife and Parks and the USDA Forest Service FLP, Northern Region program manager within thirty (30) days of recordation. Any purported amendment that is recorded without the prior written approval of the Montana Department of Fish, Wildlife & Parks and the USDA Forest Service FLP Northern Region program manager will be null and void.

3. **Extinguishment.** The Grantor and the Easement Holder acknowledge that USDA Forest Service Forest Legacy Program funding for the acquisition of this Easement is authorized by the Cooperative Forestry Assistance Act of 1978, P.L. 95-313 as amended (codified at 16 U.S.C. § 2101 et seq.), and pursuant to the grant agreement [**Insert Grant Name and Full Grant Number**] awarded by the United States Department of Agriculture (USDA) Forest Service on [**Insert Grant Date**] to the Montana Department of Fish, Wildlife and Parks. The grant agreement is housed in the USDA Forest Service Regional/Area Office at [**Insert USDA Forest Service Regional/Area/IITF Office Address**] or in an archival facility per Agency policy. The Grantor and the Easement Holder acknowledge and agree that this Easement cannot be extinguished, in whole or in part (whether through release, termination, exchange, or otherwise) unless the USDA Secretary of Agriculture (Secretary), in the Secretary's sole and absolute discretion, consents in writing to the extinguishment and the United States is reimbursed its proportionate share of the value of this Easement or the portion thereof that is extinguished at the time of extinguishment.

The form of the United States' reimbursement under this Paragraph (whether it is received in cash or in kind) shall be in the sole and absolute discretion of the Secretary but shall in all events be used for FLP or similar conservation Purposes. This Easement shall not be deemed extinguished in whole or in part until the United States receives reimbursement as provided in this Paragraph.

4. The United States' "proportionate share" is [___%], which was determined by dividing the FLP's contribution to the acquisition of this Easement by the value of this Easement at the time of its acquisition and expressing the result as a percentage. The United States' proportionate share shall remain constant over time.

5. The "value of this Easement or the portion thereof that is extinguished" shall be the value of such interest immediately before the extinguishment as determined using the before and after or similar appraisal method in an appraisal that meets the Uniform Acquisition Standards of Federal Land Acquisition (UASFLA) and is completed by a certified general appraiser approved by the Grantee and the R/A/I.

6. No inaction or silence by the Secretary shall be construed as approval of an extinguishment or as an abandonment of this Easement in whole or in part. Any purported extinguishment executed without the prior written consent of the Secretary will be null and void. The provisions of this Paragraph shall survive any partial extinguishment.

7. This Easement constitutes a real property interest immediately vested in the Department. It is the unequivocal intention of Department and the Landowner that the conservation Purpose of this Easement be carried out in perpetuity. If circumstances arise in the future that render all Purposes of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. Department and Landowner agree that changed economic conditions may not be considered as circumstances justifying the modification, termination or extinguishment of this Easement. If this Easement is extinguished by judicial proceedings or should any interest in the Land be taken by the exercise of the power of eminent domain or acquired by purchase in lieu of condemnation with the **Prior Approval** of the Department, Department is entitled to a proportionate share of the proceeds of any sale, exchange, or involuntary conversion of the Land formerly subject to this Easement. The Landowner and Department shall act jointly to recover the full value of the property interests in the Land subject to the taking or in lieu purchase and all direct costs or incidental damages to which each is entitled. For the purposes of this Paragraph, the ratio of the value of this Easement to the value of the Land unencumbered by this Easement remains constant as determined as of the date of this grant. Department and the Landowner agree that the Department's proportionate interest in the value of the Easement is [___] (___%) percent, and the Landowner's proportionate interest is [___] (___%) percent. The value of any future interest will not include any value attributable to authorized improvements to the Land made after the date of this grant, except as to improvements made by or at the expense of Department, unless evidence at any condemnation hearing or proceeding demonstrates actual damages to the Landowner and Department which vary in favor of Department from the proportionate interest established above.

8. This Easement was acquired, in part, using funds provided to the Department by the USFWS, as a grant under its Endangered Species Act, Section 6 Habitat Conservation Plan Land Acquisition Grants Program. Additionally, a portion of the value of this Easement was donated by the Landowner and is being used as part of the required non-federal share to match the USFWS grant. USFWS regulations require that the Land covered by this Easement be managed in accordance with the terms and conditions of this Easement in perpetuity, unless otherwise approved by the USFWS regional director. The Easement may not be encumbered, disposed of in any manner, or used for purposes inconsistent with the Endangered Species Act Section 6 Grant without the prior written approval of the Regional Director of the USFWS. In the event of judicial termination or extinguishment of this Easement for circumstances as described under this Paragraph, the Department shall coordinate with USFWS and shall apply any funds received in settlement for such termination or extinguishment to habitat conservation as approved by USFWS.

K. ASSIGNMENT

This Easement may be transferred or assigned only (i) to a government entity that (a) is eligible to hold this Easement under the Forest Legacy Program (FLP) and authorized to acquire and hold conservation easements under the laws of the State of Montana, (b) is willing and able to hold this Easement for the Purposes for which it was created, and be carried out in perpetuity, and (c) expressly agrees to assume the responsibility imposed on the Department by the terms of this Easement and (ii) with the consent of the Department. As a condition of such transfer, the Department shall provide ninety (90) days' notice to Landowner of such transfer or assignment.

L. AMENDMENT

If circumstances arise under which an amendment to or modification of this Easement would be appropriate, the Landowner and the Department are free to jointly amend this Easement; provided that no amendment shall be allowed that will affect the qualifications of this Easement under any Applicable Laws, including §76-6-101, et seq., MCA, and any amendment shall be consistent with the Purposes of this Easement, and shall not affect its perpetual duration.

M. RECORDATION

The Department shall record this Easement in the official records of Lincoln County, Montana. The Department may re-record this Easement at any time.

N. GENERAL PROVISIONS

1. **Controlling Law.** The interpretation and performance of this Easement will be governed by the laws of the State of Montana.

2. **Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the Purposes of this Easement and the policy and purpose of Mont. Code Ann. §76-6-101, et seq. If any provision in this Easement is found to be ambiguous, an interpretation consistent with the Purposes of this

Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

3. **Entire Agreement.** Except with respect to matters set forth in the Baseline Report and the MRMP, this instrument sets forth the entire agreement of the Parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Easement, all of which are merged into this Easement.

4. **No Forfeiture.** Nothing contained in this Easement will result in a forfeiture or reversion of Landowner's title in any respect.

5. **Successors.** This Easement shall be binding upon and inure to the benefit of the Parties, their heirs, administrators, successors and assigns, and shall continue as a servitude running in perpetuity with the Land.

6. **Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Land, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

7. **Severability.** If any provision of this Easement is found to be invalid, the remainder of the provisions of this Easement shall not be affected.

TO HAVE AND TO HOLD unto the Department, its successors, and assigns forever.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF Landowner and the Department have set their hands on the day and year first above written.

LANDOWNER:

STIMSON LUMBER COMPANY

By: _____

Andrew W. Miller
President and CEO

ACKNOWLEDGMENTS

STATE OF OREGON)
)ss:
COUNTY OF Multnomah)

On this ___ day of _____, 2019, before me personally appeared the individual that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public in and for the State of Oregon

DEPARTMENT:

MONTANA DEPARTMENT OF FISH, WILDLIFE
AND PARKS

By: _____
Martha Williams, Director

STATE OF MONTANA)
) ss:
County of Lewis and Clark)

This instrument was signed before me on _____

SEAL

Notary Public

EXHIBIT A – LEGAL DESCRIPTION

Legal Description

In Township 31 North, Range 29 West, P.M.M., Lincoln County, Montana

Section 05: Government Lots 1, 2, 3, and 4, the S $\frac{1}{2}$ N $\frac{1}{2}$ and SE $\frac{1}{4}$

Section 07: Government Lots 1, 2, 3, and 4, the E $\frac{1}{2}$ W $\frac{1}{2}$ and E $\frac{1}{2}$

Section 17: ALL, EXCEPTING THEREFROM all that portion of the E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ conveyed to the USA in document recorded January 9, 1969 in Book 4 at Page 364 and correction document recorded September 19, 1974 in Book 28 at Page 683.

Section 21: W $\frac{1}{2}$, EXCEPTING THEREFROM all that portion conveyed to the USA in document recorded January 9, 1969 in Book 4 at Page 364 and correction document recorded September 19, 1974 in Book 28 at Page 683.

In Township 32 North, Range 29 West, P.M.M., Lincoln County, Montana

Section 19: Government Lots 1, 2, 3, and 4, the E $\frac{1}{2}$ W $\frac{1}{2}$ and SE $\frac{1}{4}$

Section 21: S $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 28: N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, the N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$

Section 29: ALL

Section 31: Government Lots 1, 2, 3, and 4, the E $\frac{1}{2}$ W $\frac{1}{2}$ and E $\frac{1}{2}$

Section 33: ALL, EXCEPTING THEREFROM all that portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ conveyed to the USA in document recorded January 9, 1969 in Book 4 at Page 364 and correction document recorded September 19, 1974 in Book 28 at Page 683.

In Township 31 North, Range 30 West, P.M.M., Lincoln County, Montana

Section 03: Government Lots 1, 2, 3, and 4, the S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$

Section 05: Government Lots 1, 2, 3, 4, 5, 6, and 7, the S $\frac{1}{2}$ NE $\frac{1}{4}$, the SE $\frac{1}{4}$ NW $\frac{1}{4}$, the E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$

Section 07: Government Lots 1, 2, 3, and 4, the E $\frac{1}{2}$ W $\frac{1}{2}$ and E $\frac{1}{2}$

Section 09: NW $\frac{1}{4}$, the NW $\frac{1}{4}$ SW $\frac{1}{4}$, the W $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 17: W $\frac{1}{2}$

Section 19: Government Lots 1, 2, 3, and 4, the E $\frac{1}{2}$ W $\frac{1}{2}$ and E $\frac{1}{2}$

In Township 32 North, Range 30 West, P.M.M., Lincoln County, Montana

Section 07: Government Lots 1, 2, 3, and 4, the E $\frac{1}{2}$ W $\frac{1}{2}$ and E $\frac{1}{2}$

Section 08: ALL

Section 17: ALL

Section 18: Government Lots 1, 2, 3, and 4, the E $\frac{1}{2}$ W $\frac{1}{2}$ and E $\frac{1}{2}$

Section 19: Government Lots 1, 2, and 3, the NE $\frac{1}{4}$ SW $\frac{1}{4}$, the E $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ NE $\frac{1}{4}$

Section 29: ALL

In Township 30 North, Range 31 West, P.M.M., Lincoln County, Montana

Section 05: Government Lot 3, the S¹/₂NW¹/₄ and SW¹/₄
Section 06: Government Lots 1 and 7, the S¹/₂NE¹/₄, the E¹/₂SW¹/₄ and SE¹/₄
Section 07: NE¹/₄NE¹/₄
Section 08: SE¹/₄SE¹/₄
Section 17: NW¹/₄
Section 18: Government Lots 1, 2 and 3, the E¹/₂NW¹/₄, the NE¹/₄SW¹/₄ and NW¹/₄SE¹/₄

In Township 31 North, Range 31 West, P.M.M., Lincoln County, Montana

Section 13: Government Lots 1, 2, 3 and 4, the N¹/₂S¹/₂ and N¹/₂
Section 31: Government Lots 2, 3 and 4, the E¹/₂W¹/₂, the NW¹/₄SE¹/₄ and W¹/₂NE¹/₄
Section 32: SE¹/₄SW¹/₄ Excepting therefrom the North 165 feet

In Township 32 North, Range 31 West, P.M.M., Lincoln County, Montana

Section 04: SW¹/₄SW¹/₄
Section 05: Government Lots 1, 2, 3 and 4, the S¹/₂N¹/₂ and S¹/₂
Section 07: Government Lots 1, 2, 3, and 4, the E¹/₂W¹/₂ and E¹/₂
Section 09: N¹/₂NW¹/₄, the NW¹/₄NE¹/₄ and SE¹/₄NE¹/₄
Section 15: S¹/₂
Section 17: ALL
Section 19: Government Lots 1, 2, 3, and 4, the E¹/₂W¹/₂ and E¹/₂
Section 21: NW¹/₄, the N¹/₂NE¹/₄, the SW¹/₄NE¹/₄ and N¹/₂SW¹/₄
Section 28: S¹/₂NW¹/₄NE¹/₄, the S¹/₂NE¹/₄NW¹/₄, the SW¹/₄NE¹/₄, the SE¹/₄NW¹/₄, the E¹/₂SW¹/₄NW¹/₄, the SW¹/₄SW¹/₄NW¹/₄, and W¹/₂W¹/₂SE¹/₄NE¹/₄

In Township 33 North, Range 31 West, P.M.M., Lincoln County, Montana

Section 05: Government Lots 2, 3 and 4, the S¹/₂N¹/₂ and S¹/₂
Section 08: ALL
Section 09: W¹/₂, the W¹/₂NE¹/₄ and SE¹/₄
Section 15: W¹/₂, the W¹/₂E¹/₂, and SE¹/₄SE¹/₄
Section 17: ALL
Section 31: Government Lots 1, 2, 3 and 4, the E¹/₂W¹/₂ and E¹/₂

In Township 34 North, Range 31 West, P.M.M., Lincoln County, Montana

Section 31: Government Lots 1, 2, 3 and 4, the E¹/₂W¹/₂ and E¹/₂
Section 32: S¹/₂

In Township 32 North, Range 29 West, P.M.M., Lincoln County, Montana

Section 27: The NW¹/₄NW¹/₄NW¹/₄NW¹/₄ . EXCEPTING THEREFROM all that portion conveyed to the USA in document recorded January 9, 1969 in Book 4 at Page 364 and correction document recorded September 19, 1974 in Book 28 at Page 683.

In Township 28 North, Range 31 West, P.M.M., Lincoln County, Montana

Sections 3 and 4: Homestead Entry Surveys No. 958, 1130 and 1039

Sections 10, 11, 14 and 15: Homestead Entry Surveys No. 583

In Township 29 North, Range 31 West, P.M.M., Lincoln County, Montana

Section 20: The S¹/₂NW¹/₄, NE¹/₄ and W¹/₂SW¹/₄

Section 29: N¹/₂NW¹/₄

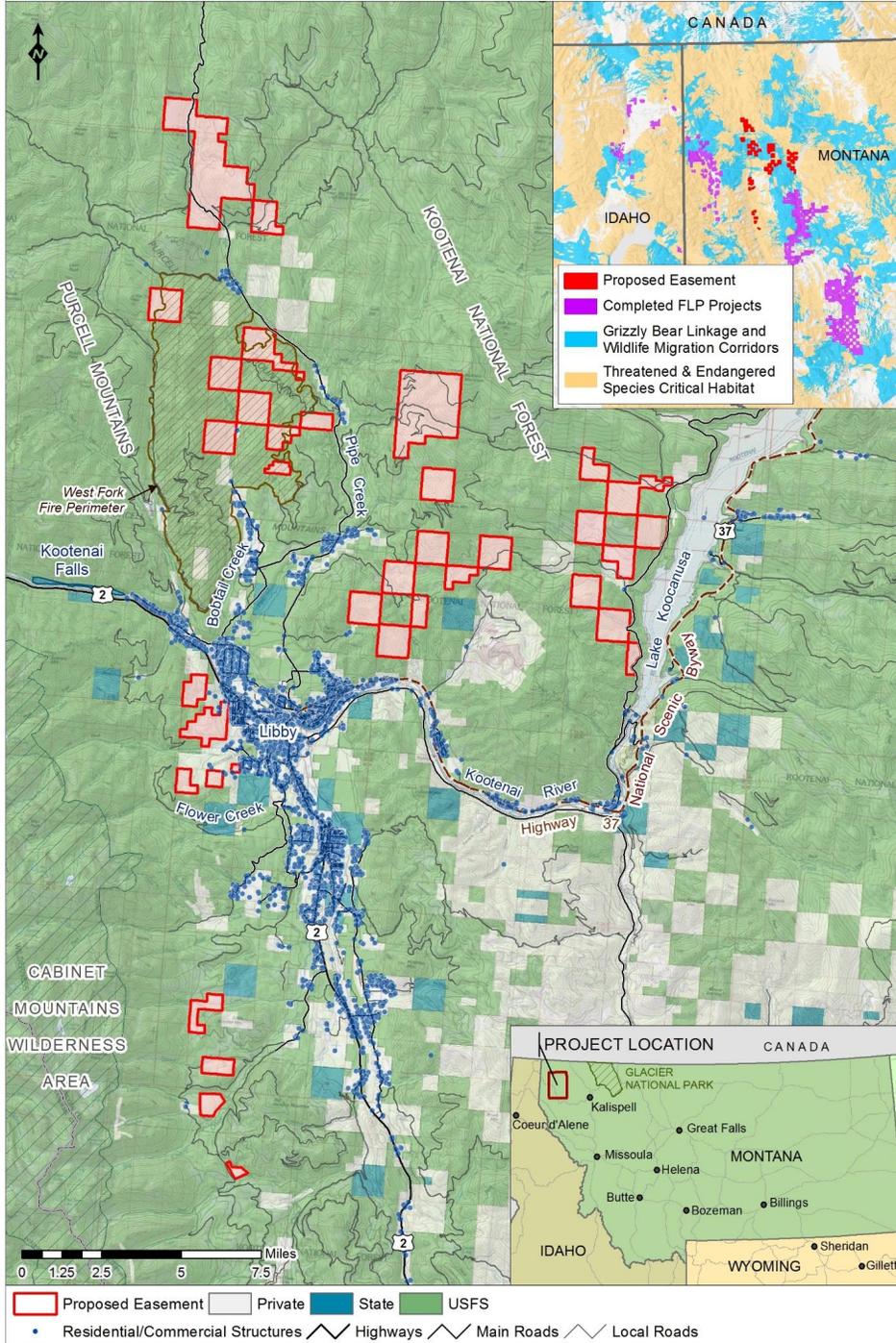
Section 32: NE¹/₄

Section 33: NW¹/₄

END OF EXHIBIT A

EXHIBIT B MAP OF THE LAND

KOOTENAI FORESTLANDS CONSERVATION PROJECT FY19 Forest Legacy Proposal



END OF EXHIBIT B

EXHIBIT C

RESTRICTED ZONE

That portion of the Land which contains fish-bearing streams will be subject to the following restrictions:

(i) The portion of the Land which is affected by these restrictions (the “Restricted Zone”) is described as an area that includes the Federal Emergency Management Agency (“FEMA”) 100-year floodplain if mapped as the date hereof along with an additional area fifty (50) feet in width, slope distance, on each side of the FEMA 100-year floodplain. When no FEMA floodplain is mapped, the Restricted Zone will apply within a zone of fifty (50) feet wide, slope distance on each side of the stream measured from the ordinary high-water mark of the stream. Where the slope of the Restricted Zone is greater than 35 percent (35%), the distance will be extended to one hundred (100) feet or to the edge of a flat bench of 15 percent (15%) slope, whichever is less. The area shall be extended to include any associated wetlands.

(ii) Within the Restricted Zone, the following restrictions shall apply:

A. No buildings shall be constructed within the Restricted Zone.

B. No new roads shall be constructed within the Restricted Zone except where such construction is necessary to obtain access or to cross a stream or wetland. All new road construction shall be in compliance with forestry road Best Management Practices then in effect to minimize the delivery of sediment to streams.

C. No gravel pits shall be developed within the Restricted Zone.

D. The amount of impervious surface area (such as paving) shall not exceed ten percent (10%) of the total land area within the Restricted Zone.

E. No timber shall be harvested within the Restricted Zone without Prior Approval. Shrubs and sub-merchantable trees must be protected and retained in the Restricted Zone to the extent practical.

F. Any application of herbicides, pesticides, or fertilizers within the Restricted Zone must be done in a manner that such materials are not introduced into streams, lakes, wetlands, or other bodies of water through surface runoff or subsurface flow.

G. Development of private ponds for fish stocking is prohibited within the Restricted Zone.

END OF EXHIBIT C

**APPENDIX C: DRAFT KOOTENAI FORESTLANDS CONSERVATION
EASEMENT MULTI-RESOURCE MANAGEMENT PLAN**

MULTI-RESOURCE MANAGEMENT PLAN

Kootenai Forestlands Conservation Easement

This Multi-Resource Management Plan (the “MRMP”), dated as of _____, 2019, is entered into by **STIMSON LUMBER COMPANY**, an Oregon corporation, whose principal address is 520 S.W. Yamhill, Suite 700, Portland, OR 97204-1330, (hereinafter referred to as the "Landowner") and the **MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS**, whose address is 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701 (hereinafter referred to as the "Department").

This MRMP is being entered into pursuant to Section II.F. of that certain Deed of Conservation Easement granted by the Landowner to the Department on _____, 2019 and recorded in Document No. _____ of the records of Lincoln County, Montana, and pursuant to Section XX of the certain Deed of Conservation Easement Granted by the Landowner to the Department on _____, 2019 and recorded in Document No. _____ of the records of Lincoln County, Montana (the “Easement”).

A portion of the funding for the Easement is being provided through the Forest Legacy Program (“FLP”), which is administered by the U.S. Forest Service pursuant to Section 1217 of Title XII of the Food, Agriculture, Conservation and Trade Act of 1990 (16 USC Section 2103C) created “to protect environmentally important private forest lands threatened with conversion to non-forest uses”.

One of the primary intents of the Easement is to effect the purpose of the FLP in accordance with the provisions of Title XII of the Food, Agriculture, Conservation and Trade Act of 1990 (16 U.S.C. 2103c). This is accomplished by protecting environmentally important forest areas that are threatened by conversion to non-forest uses, protecting important scenic, cultural, fish, wildlife, recreational resources and riparian areas, protecting the capacity of the lands to produce economically valuable forestry products – all while allowing the Landowner and its successors and assigns to continue conducting sustainable commercial timber and resource management activities.

Another intent of the Easement is to protect important habitat for threatened and endangered species including bull trout, grizzly bear, and Canada lynx. The project will conserve important habitat and travel corridors for federally listed and at-risk species. Other important species inhabit the lands including mule deer, whitetail deer, elk, moose, black bear, moose and a variety of other non-game species.

A further intent of the Easement is to perpetuate the Land as forest land. This ensures the long term, professional management of the forest resources through forestry activities permitted hereunder; and to provide for commercial production of forest products in a manner compatible

with the conservation of water quality, fish and wildlife habitat, recreation and other Conservation Values (as defined in the Easement).

This MRMP identifies and describes the objectives and actions that the Landowner will take to protect, manage, maintain, and enhance soil, water, range, aesthetic quality, recreation and public access, timber, fish, and wildlife resources in a manner compatible with Landowner objectives. As such, it is intended to help meet the requirements of the FLP to protect environmentally important forest areas that are threatened by conversion to non-forest uses and to ensure compliance with the Sustainable Forestry Initiative as described below.

I. GENERAL DESCRIPTION

The land that is the subject of the Easement and this associated MRMP consist of 22,295 acres in northwestern Montana, near the City of Libby (the “Land”). The Land is intermingled with other private land, State Forest land managed by the Montana Department of Natural Resources and Conservation (“DNRC”), and public land administered by the U.S. Forest Service, Kootenai National Forest.

The Land is located immediately adjacent to and primarily north of the City of Libby. The Land consists of 55 whole or partial sections. All of the Land located within Lincoln County.

The Land is forested valley bottoms and mountains managed for timber production over the last 100 years. Elevations vary from approximately 2,100 to 6,000 feet. Many important streams cross the property which provide habitat for native fish, including the Pipe Creek drainage which provides bull trout spawning and rearing habitat. The Land also includes numerous small streams and wetland areas.

Forestland dominates the landscape. It is a mixed conifer forest with all Montana commercial timber species represented. The current forest is well stocked with vigorous growing stock of native mixed species. The Forest Inventory and sustainable harvest will significantly increase over the next 10-30 years as these juvenile trees mature. Dominant species are Douglas-fir, western larch, true firs, and hemlock. Ponderosa pine, spruce, white pine, lodgepole pine and cedar can also be found in most of the area. Limited amounts of cottonwood and aspen can be found along creeks and near wetland areas and paper birch is evident on many north-facing slopes. The timbered stands vary in age from young regeneration to commercial saw timber.

II. FOREST MANAGEMENT

The Landowner’s objective is to utilize its resources through innovative forestry management and harvest techniques. Wise stewardship and good business practices go hand in hand and the Landowner has entered into or assumed responsibility for several stewardship agreements described above and in Exhibits. These agreements specify commitments made by the Landowner to protect fish and wildlife and their habitats. The Landowner intends to follow and maintain these agreements, and their updates, revisions or amendments as part of this MRMP.

The management goal is to optimize the value of the timber resource while managing for other non-timber resources. The majority of the forest regenerates naturally, and 100% reforestation will be accomplished over time using both natural and artificial methods. Both methods will encourage establishment and propagation of native forest species and will discourage the use of nonnative species.

The Landowner has committed to manage the Land in accordance with good and sound silvicultural practices consistent with the *2015-2019 Standard of the Sustainable Forestry Initiative (SFI)*. This forest certification system is managed by SFI, Inc., which is an independent, 501(c) (3) non-profit charitable organization governed by an independent, multi-disciplinary board. The Landowner maintains certification, in good standing, and will make a copy of this conformance available to the Department following each audit. As part of the commitments to sustainable forest management, the Landowner agrees to the following guidelines and metrics to measure their activities. These guidelines and metrics are not intended to restrict fiber production but to provide measures to ensure the MRMP objectives are met. If the Landowner's forest practices are found to vary from these guidelines, the Liaison Team established by the Easement, will develop, and insure that the Landowner implements, a plan to bring the practices into compliance. The SFI program is a comprehensive system of principles, objectives, and performance measures that integrates the perpetual growing and harvesting of trees with the protection of wildlife, plants, soil and water quality. The program includes a voluntary, independent third-party verification process, which the Landowner has incorporated into their management of the Land. Forest certification standards will evolve and it is assumed that the Landowner will manage the Land to a forest certification process.

The Landowner's foresters and the independent contractors who work for the Landowner are committed to good stewardship. In order to operate on the Land, contractors must participate in formal Best Management Practices ("BMP") and Streamside Management Zone ("SMZ") training. The Landowner will continue to manage the Land in a responsible manner in compliance with this MRMP, forest certification standards, and Kootenai Lands Native Fish Habitat Conservation Plan ("KLNHFHCP") commitments.

The Landowner requires cleaning of logging equipment and applies selected road closures to reduce the spread of noxious weeds. Landowner will employ limited spraying of roadsides in areas with heavy weed infestations.

III. OTHER RESOURCES

In accordance with the FLP and the Landowner's *Sustainable Forestry Principles* document, outlined below, the following describes the Landowner's objectives and actions for various resources.

A. Soil

The Landowner will maintain soil and site productivity by minimizing soil disturbance to the extent practical and, when possible, by recycling harvest residues for soil nutrient enhancement.

B. Water

The Landowner will continue to implement voluntary Montana Forestry BMP's. All forest owners in Montana are required to comply with the Streamside Management Zone law. In addition, the Landowner will manage enhanced streamside buffer zones consistent with the KLNHFHCP currently in existence on the Land.

C. Range

None of the Land is presently managed as rangeland. The Land may be used or leased for grazing after development of a Grazing Plan, which will be incorporated into the MRMP. Grazing may be allowed for weed control or other land management purposes consistent with the protection and maintenance of the Conservation Values of the Land.

D. Aesthetic Quality

The Landowner recognizes the aesthetic values along Pipe Creek Forest Road #68, Forest Development Road #228, State Highway 37, and associated view sheds of Libby, the Kootenai Valley and the Pipe Creek drainage. The Landowner will manage these areas within the Land by using appropriate design standards and harvest methods.

E. Public Recreation

The Easement gives the public the general right of access to the Land in perpetuity for the responsible use of the Land for non-commercial recreation such as hunting, fishing, non-commercial huckleberry picking, trapping as defined in Montana regulations, wildlife viewing, and other recreation uses. The public use of the Land is subject to certain restrictions described in both the Easement and incorporated into this MRMP (Exhibit A).

F. Habitat Conservation Objectives and Implementation.

An objective of the SFI Standard is to ensure that forest management practices will "manage the quality and distribution of wildlife habitats and contribute to the conservation of biological diversity by developing and implementing stand and landscape-level measures that promote habitat diversity and the conservation of forest plants and animals, including aquatic species." The SFI Standard provides general performance measures and indicators to meet this objective. The Landowner will manage the Land consistent with the SFI objective, performance measures and indicators.

G. Fish and Wildlife

The Landowner manages its resources while considering fish and wildlife through judicious control of road access, timber harvest management, and cooperation with state and federal fish and wildlife agencies.

While the USFWS has removed grizzly bears from the endangered species act within the Greater Yellowstone Ecosystem, the grizzly bear remains a federally protected species on portions of the Land subject to the MRMP. The Land which is located within the USFWS-designated Cabinet-Yaak Recovery Zone, has and will be managed using the Landowner's Grizzly Bear BMP's that have been attached hereto as Exhibit B. These BMP's may be revised or amended from time to

time, and with the mutual consent of the Landowner and the Department, shall become the new standard under which forest management activities are conducted on the Land.

The bull trout is a federally protected native fish species. Pipe, Noisy, Blue, Flower and Rainey Creeks are identified as Tier 1 habitats for bull trout (i.e., spawning and juvenile rearing areas). The Landowner commits to managing the Land to protect fish in accordance with a KLNFBHCP, as it may be amended from time to time with the mutual consent of the Landowner and the USFWS. Key conservation provisions of the KLNFBHCP have been attached hereto as Exhibit C.

The KLNFBHCP is an outgrowth of the Native Fish Habitat Conservation Plan (“NFHCP”) that was entered into by the USFWS and Plum Creek (as the previous owner of the Land) on October 25, 2000. It was a 30-year agreement that applied to 1.6 million acres, which were then owned by Plum Creek in Montana, Idaho and Washington. The stated purpose of the NFHCP is to help conserve native salmonids and their ecosystems while allowing for continued commercial timber management within a framework of long-term regulatory certainty and flexibility. It includes numerous conservation commitments designed to conserve native fish species through a multi-species aquatic ecosystem approach. All management activities on the Land, including timber harvesting, road building and land sales are governed by this MRMP.

The Landowner purchased portions of the Land in May 2003 and December 2016. As part of its 2003 acquisition, the Landowner entered into an Assignment and Assumption Agreement with the USFWS and Plum Creek, whereby it assumed all rights, interests and obligations of Plum Creek under the NFHCP and with the plan, as it pertains to the Land, being renamed the “Kootenai Lands Native Fish Habitat Conservation Plan.” The KLNFBHCP, which remains in effect until October 25, 2030, provides for adaptive management in consultation with the USFWS in order to help conserve native salmonids and their ecosystems during commercial timber harvest activities.

In addition, the Land is important for wildlife such as elk, deer, moose, black bear, lynx, wolverine, fisher, songbirds, cavity-nesting birds, and a variety of other native and migratory wildlife species. The Landowner recognizes the value and importance of maintaining or enhancing fish and wildlife habitat to ensure stable populations. The Land shall be managed in accordance with the Landowner’s *Sustainable Forestry Principles*, which includes provisions to maintain or enhance biodiversity. In consideration of the particular wildlife habitat values of the Land, the Landowner shall apply the practices as set forth below:

1. The commercial harvest of cottonwood trees is prohibited. Additionally, the harvest, felling, destruction, and removal of cottonwood trees are prohibited, except:
 - a. As may occur incidentally during the normal conduct of forest management activities;
 - b. As part of the construction or maintenance of roads, fences or other improvements authorized by the Easement;
 - c. For the purpose of addressing safety hazards; or
 - d. When granted Prior Approval by the Department, which must find that the harvest, felling, destruction, or removal activity will be beneficial to the overall habitat value of the Land.

2. The harvest of aspen trees is prohibited, unless such harvest is granted Prior Approval by the Department, which must find that the harvest will be beneficial to the overall habitat values of the Land. Additionally, the Landowner may not intentionally damage or destroy aspen stands; provided, however, that the Landowner may harvest coniferous timber in or associated with an aspen stand through normal forest management practices and may, in conducting such a harvest, cause damage to aspen trees, without being in violation of this paragraph.
3. Landowner may not fell, remove, or destroy snags (dead standing trees) in a manner that reduces the densities and sizes below the snag retention and recruitment criteria provided for in Section IV.G of this MRMP. Landowner is not responsible for the unauthorized felling, removal or destruction of snags conducted by the public on the Land.
4. Riparian zones and non-forested wetlands, including bogs, fens, and marshes, shall be identified prior to implementing forest management activity in a harvest unit. The draining, filling, dredging, or destruction of any wetland area or any other activity that has significant adverse impacts on a wetland is prohibited except as allowed under forest management practices described in the Easement.
5. The Landowner will use uneven-aged forest management practices in riparian zones and around non-forested wetlands. Wetland buffer management around isolated wetlands of one-half acre in size or larger will include:
 - a. No skidding through wetlands, including during frozen ground conditions;
 - b. Minimizing disturbance to shrubs and non-merchantable trees within 50 feet of the wetland edge;
 - c. Directional felling of merchantable trees away from the wetland;
 - d. Retention of merchantable trees that are leaning into the wetland;
 - e. Whole tree skidding of trees felled within 50 feet of the wetland to minimize ground disturbance;
 - f. Retention of merchantable trees, when appropriate, to assist meeting SFI or similar forest certification guidelines;
 - g. Provide extra measures of protection to these wetlands by concentrating harvest unit wildlife trees a minimum of 50 feet from the wetland edge and implementing uneven age management prescriptions;
 - h. For the purposes of this section, the term wetland includes units on the landscape such as marshes, swamps, bogs, fens, and lowlands covered with shallow and sometimes ephemeral or intermittent waters. The term wetland also includes wet meadows, potholes, sloughs, and the riparian zone. Shallow lakes and ponds, usually with emergent vegetation as a conspicuous feature, are included in the wetland definition;

Implementation of above policies for isolated wetlands will be reviewed annually by FWP and the Landowner and these measures may be adapted as additional scientific information is available, and as the results of these measures are monitored and reviewed for effectiveness, provided that each party agrees to the adaptations.

H. Minerals

The Landowner owns limited mineral resources on the Land. The Easement provides the Landowner with limited rights to extract sand, gravel, and rock in accordance with provisions that minimize impacts and ensure restoration of disturbed areas as per specific Montana Department of Environmental Quality permit operating plans and the specific terms and conditions outlined in the Easement. The Easement prohibits the Landowner from exploring for, developing, mining, producing or otherwise extracting any minerals, oil, natural gas, coal-bed methane or other hydrocarbon resources on or under the surface of the Land. It also prohibits the Landowner from conveying any interest in mineral rights to another party for purposes of mineral exploration, development, production or extraction.

I. Outfitting/Commercial Recreation

The Easement authorizes commercial recreation on the Land, but the Landowner currently allows only non-commercial, public recreation opportunities. Any future provision agreed upon by the parties to allow commercial outfitting or other commercial recreational uses shall be signed and appended as an exhibit to this MRMP. Commercial recreational uses cannot be exclusive to permitted users nor reduce or diminish the public's general ability to access or utilize the Land for dispersed recreation. Commercial uses cannot impact the "Conservation Values" as defined in the Easement. Minor issues arising between commercial and public users will be addressed through the Liaison Team.

IV. PLAN GUIDELINES and SELECTED METRICS

The Landowner agrees to the following guidelines and metrics to measure its activities under this MRMP and to ensure that MRMP objectives are met. It is understood that as circumstances change and new knowledge is obtained, that these guidelines and metrics may need to be adapted and modified. Accordingly, the parties agree to work cooperatively to adjust these metrics over time so as to continue to meet the spirit and intent of this MRMP.

1. Commit to external SFI or other comparable audit of the Inland Operations Management Area which includes the Land, at least once every 5 years as specified in current SFI standards. Review audit recommendations and determine if changes should be implemented.
2. Commit to follow all grizzly bear best management practices outlined in Exhibit B.
3. If sites are selected, the Landowner will participate in State BMP audits on the Land. Results of these audits will be discussed at the annual Liaison Team meetings, and the Landowner will take actions to correct any departures.
4. Timber harvest activities on the Land will be conducted in a manner consistent with the Landowner's *Inland Sustainable Forestry Principles*.
5. All even-aged management treatments will require a minimum of a 30-year rotation. Reforest to appropriate levels consistent with guidelines set forth in the Landowner's *Inland Sustainable Forestry Principles*.
6. Snags and/or live trees will be left for wildlife habitat diversity. Snags that do not pose a safety hazard or fire concern shall remain uncut. Those snags that must be cut, but do not have a merchantable value shall be left within the harvest unit. Landowner will

manage forest stands so as to attempt to maintain an average of at least two snags per acre greater than 15 inches in diameter across the landscape ranging from individual trees to clumps at the discretion of the landowner. Trees left for the purposes of meeting other metrics and rules (such as trees in SMZ buffers) may count toward this metric as well. Whenever practical, preserve fruit, nut, and berry producing shrubs and trees. In addition, cull logs should be left so that sufficient downed woody debris exists but no less than 2 pieces/acre greater than 10 inches in diameter and measure 6 feet or longer. These snags, trees, and logs should be left near streams, wet areas, or other sensitive sites or highly erosive landscapes whenever possible, dispersed throughout the unit to maximize the beneficial effects of these resources to wildlife, and prioritized in such areas that are most secure from potential public firewood collection.

7. Road inspections are currently conducted in accordance with the KLNFHCP. Under this plan, road inspections will be conducted every five to seven years by Landowner with the objective to monitor drainage effectiveness and to make repairs as quickly as possible after any problems are documented.
8. Use only contractors who have been SFI trained (or the then certification standard in effect at the time of contracting).
9. Prohibit off-duty employee/contractor motorized access behind gates or closures.
10. Catastrophic events such as fire, disease, and insect infestation may require modifications of the above guidelines and such situations need to be addressed by the Liaison Team.

V. EASEMENT MONITORING AND REPORTING REQUIREMENTS

The Easement is intended to maintain the “status quo” by providing for perpetual and responsible forest management on the Land. The Easement will restrict the development rights on the Land, which will preclude residential and commercial development that is not associated with resource management. It also provides for perpetual public access to these areas for non-commercial recreation in accordance with attached Exhibit A.

The Department will monitor the Landowner’s compliance with the terms of the Easement and MRMP on at least an annual basis through scheduled field inspections, use of flights or remote sensing, and meetings. The Department will notify the Landowner prior to each annual monitoring visit. Department employees will be allowed motorized access behind gates or closures only with permission from the Landowner and only while on-duty conducting official business of the Department. A Liaison Team representing the Department and the Landowner will be established to deal with management issues that may arise over time. It is expected that this MRMP will be amended over time to better represent the current knowledge and conditions on the ground.

In order to track compliance with the terms of the Easement and MRMP, the Landowner will annually provide a report to the Department that summarizes the following information:

1. Acres harvested by silvicultural method and other management activities;
2. Road construction or road closure changes; and
3. Current status of excavation sites (i.e., active vs. inactive) in order to monitor re-vegetation and weed control commitments. The Easement stipulates that no more than two sites of

five acres or smaller can be used for gravel/sand extraction at any one time, and for sites to move from “active” to “inactive” status, they must be contoured and planted, and receive regular weed management efforts.

In addition, the Landowner will include the following information in the annual report as these reports are completed or received by the Landowner:

1. Copies of forest certification and state BMP audits as they are periodically completed including any actions taken to meet audit recommendations; and
2. Road inspection reports to be conducted consistent with the KLNHCP every five to seven years to monitor drainage effectiveness.

Any amendment to this MRMP must have the consent of both parties and must be in writing and signed and acknowledged by the parties. If there is any inconsistency between the terms of this MRMP and the Easement, the terms of the Easement control. The Department will keep a current MRMP in its files and will make the then current MRMP available to successors in interest to the Land.

**LANDOWNER:
STIMSON LUMBER COMPANY**

By: _____
Andrew W. Miller
President and Chief Executive Officer

**DEPARTMENT:
MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS**

By: _____
Martha Williams, Director
Montana Department of Fish, Wildlife and Parks

EXHIBIT A
PUBLIC USE RESTRICTIONS

A. Road Use. In general, the public may use the Land for the purposes of dispersed recreational activities subject to the conditions contained herein. Road access for public use may be limited for a variety of reasons such as the protection of wildlife, security, prevention of sedimentation from logging roads, public safety and reducing the spread of noxious weeds. Extreme fire weather or other hazardous situations may also influence the extent of road access by the public. Road restrictions may involve cooperative agreements between other private landowners, or with state and federal government agencies. The Landowner may restrict road use with gates, barricades, earthen barriers, and signs. Landowner will enforce the following restrictions on all road systems crossing the Land:

1. Vehicles should travel at slow speeds to allow for a safe stopping distance.
2. The public must yield to all heavy truck and equipment traffic.
3. Open gates may be locked at any time at the discretion of the Landowner.
4. No motorized vehicles, which includes motorized bicycles, are allowed off-road.
5. Road restrictions apply behind an unmarked gate, even if the gate has been vandalized or is open. An open road behind a gate must be specifically designated as such by a sign. Gates may not be blocked for any reason. Vehicles which block a gate may be towed at the vehicle owner's expense.
6. An unsigned earthen barrier is considered a closure to all motorized vehicles.
7. Hikers, horseback riders, and mountain bikers are allowed behind closed gates, barricades, and earthen barriers. All motorized vehicles, including, but not limited to, dirt bikes, ATV's, and snowmobiles are not allowed behind closed gates, barricades, and earthen barriers.

B. Hunting and Fishing. Hunting and fishing on the Land is allowed only during legal seasons, and pursuant to applicable laws and regulations. Hunting and/or fishing may be restricted on the Land if necessary for resource or wildlife management upon mutual consent of the Landowner and Department.

C. Camping. No camping will be permitted on the Land.

D. Other Restrictions:

1. Commercial activity on the Land by anyone other than Landowner is permitted only with a written permit or contract;
2. The public's right to recreate on the Land does not include the right to trespass on other private property to reach the Land;
3. Violators of any of the foregoing restrictions may lose recreational privileges on the Land.
4. With the mutual consent of the Landowner and the Department, any recreation activity may be restricted if necessary for resource or wildlife management.

EXHIBIT B

Stimson Lumber Company Grizzly Bear Best Management Practices (BMP)

A. Open Road Density. Research suggests that grizzlies are displaced from habitat adjacent to open roads and that roads increase grizzly bear mortality risk due to legal and illegal harvest from or close to open roads. The intent of road closures is to minimize or preclude bear displacement and reduce human-caused mortality. The Landowner will maintain an open road density (“ORD”) of 1.05 miles per square mile or less the Land within the designated Cabinet-Yaak Recovery Area. A road is considered “open” if it is open to the public for wheeled motorized use during any portion of the year, and ORD should be calculated using the Bear Management Unit (“BMU”) sub-unit as the analysis area. Administrative motorized use behind gates or on road systems otherwise restricted will be minimized.

B. Road Location. Roads should not be constructed so that they pass through or near preferred bear habitat types. These preferred habitat types are as follows:

1. Riparian and wetland habitats,
2. Areas that produce significant amounts of huckleberries and buffalo berries, and
3. Snow chutes and avalanche chutes.

Existing and new roads that pass through these preferred habitat types should be considered for motorized use restrictions. Main haul roads or roads that are to remain open should not pass through the center of clear-cut or seed-tree harvest units. Roads should dog-leg upon entry into harvest units.

C. Cover. Cover is an important habitat consideration for grizzly bears in areas where recreational and/or administrative use occurs. Research indicates that effective cover provides for movement between foraging areas and seasonal ranges, provides security for habitat utilization, reduces mortality risk, and provides for thermal regulation. A minimum of 40% of the BMU sub-unit will be maintained in vegetative cover which can effectively conceal bears. Minimum diameter of cover blocks adjacent to openings will be three sight distances (sight distance is the distance at which 90% of an adult grizzly is hidden from view - this will vary depending on vegetative structure and topography - in most of our timber types sight distance is 200 feet or less) in order to facilitate bear movement around clear-cuts as well as use of feeding areas within openings. Optimally, cover should be provided in and adjacent to preferred habitats (see (B) above) and adjacent to open roads. Cover should be distributed throughout the watershed and calculations for cover should be based on all ownerships within the basin.

D. Size of Openings. Grizzly research indicates that bears select for edge or cover/no-cover interfaces. This is attributed to high forage values and proximity to escape cover. However, bear use of open areas has been found to decrease as distance to cover increases. Clear-cut and seed-tree units will be laid out so that no point in the unit is more than 600 feet from effective hiding cover. Generally, biologists agree that the shape of a cutting unit is more important than its size.

The intent of the BMP is to increase edge, maintain bear habitat effectiveness, and allow bears to take maximum advantage of adjacent cover.

E. Timing of Operations. Seasonal timing of operations is an effective tool to minimize bear/human confrontations and maximize the effectiveness of important habitat, especially spring range. The Landowner activities will be coordinated in time and space so that activities occur at a time when the area has the least biological importance to grizzly bears. The Landowner agrees to stop all management activities, other than replanting, forest inventory, sale preparation, and other non-motorized administrative use during April 1 to June 15 within the designated Cabinet-Yaak Recovery Area's four (4) southernmost parcels known as Deep Creek and Smearl Creek and Flatiron Mountain at the far north end of the project.

F. Wetland and Riparian Habitats. Wetland and Riparian areas are extremely important to grizzly bears for foraging opportunities and cover/movement corridors. The Landowner will utilize silvicultural prescriptions that maintain forage values for bears while retaining cover values. Hence, selective, uneven-age harvest techniques should be used in or near such sites.

G. Food Storage. The Landowner will incorporate where possible requirements in contracts with logging or forestry contractors indicating that food, garbage, and other attractants will be stored in a bear resistant manner. Burnable attractants (such as food leftovers) shall not be buried, discarded, or burned in an open campfire.

EXHIBIT C

Key Conservation Provisions of the Kootenai Lands Native Fish Habitat Conservation Plan

BMP Compliance

The Landowner will maintain their level of compliance with Forestry BMPs covering roads and upland forest management activities for Montana within the Project Area. In Montana, BMPs are a non-regulatory program. The Landowner's commitment, at a minimum, is to comply with the Montana BMPs as if they were State law.

New Road Construction

The Landowner will design and construct new roads to enhanced BMP standards. This means that the Landowner will not only meet existing state rules and BMPs but will exceed them by implementing certain enhancements.

1. Where road grades slope toward stream crossings, drivable drain dips and/or ditch relief pipes will be located at the nearest practicable location to streams with an adequate filtration zone in order to minimize sediment delivery to streams. This will most often be where there is 25-27 feet of filtration below the drainage feature outfall and the stream and the drainage feature is 50-150 feet away from the stream along the road centerline. In addition to this drainage feature, a second drainage feature above crossings will be located within 400 feet of the first. If drain dips cannot be constructed (e.g., due to road steepness), alternative methods will be employed to route road surface drainage into filtration zones (or sediment traps) to similarly minimize overall sediment delivery. Where soils at the outfall of drainage features would be subject to erosion, they will be armored with rock, slash, or other methods.

2. Road fills over stream crossings will be grass seeded (all grass seeding should be with a mix of native seeds that are site appropriate) and straw-mulched concurrent with construction. Other road cuts and fills on newly constructed roads will be seeded within one operating season. The tread on native-surface roads will also be grass seeded within one operating season following construction unless the road will be used for hauling within two years of construction. Where needed to initiate grass growth, fertilizer may also be applied. At a minimum, fill slopes that are within 10 feet of streams will be straw-mulched.

3. Slash filter windrows or a suitable alternative will be installed at the toe of all fill-slopes that are within 50 feet of streams and extended to encompass the closest drainage feature outlet (drive dip or culvert). Also, where operationally feasible, the slash filter windrow will be extended over the top of the culvert on the downstream side of the fill. If inadequate slash is available for construction of a windrow, other filtration means will be implemented to achieve the same, or greater, protection.

4. Fills at culvert inlets on stream crossings (culverts greater than or equal to 24-inch-diameter) will be well armored with rock.

5. Stream crossing culvert installations will be designed to accommodate at least the 100-year peak flood as determined by U.S. Geological Survey flood magnitude prediction procedures. Alternatively, the culvert size for a 100-year flood may be calculated by a Landowner hydrologist based on an analysis of channel dimensions).

6. The road tread over stream crossings on highly erosive soils will be surfaced with rock. These are considered to be soils derived from deeply weathered granite and sedimentary rock, mica schist, and fine-textured lacustrine or glacier deposits. The minimum length to be rocked is 50 feet on either side of the crossing. Where road grades slope toward streams, rocking will extend to encompass the closest drainage feature above the crossing. Maps will be provided to foresters to aid in determining where these soils exist.

7. New roads that are proposed on side slopes greater than 70% will require a review for potentially unstable features. These include bedrock hollows, inner gorges, convergent headwalls and toes of deep-seated landslides. If potentially unstable features are identified where side slopes exceed 70%, an attempt will be made to find a suitable alternative location. Where that is not feasible, a report will be prepared based on a segment of road by a geotechnical specialist who evaluates risks of landslides and recommends ways to minimize risks. All such recommendations must be implemented.

8. Road cross-drainage will be provided as frequently as necessary to control road tread erosion. On active native-surfaced roads, road drainage features will be located such that road runoff distances generally do not exceed 300 feet (and will not exceed 400 feet) along the road centerline. On highly erodible soil types, or on road grades steeper than 8%, this spacing will be reduced from the specifications listed above.

9. Road clearing limits will be minimized where roads cross streams.

10. Where seeps or springs are discovered during road construction, drainage features will be installed that pass accumulated surface water across the road prism and return it to the forest floor as close to the point of origin as reasonably practicable.

11. Roads should not be located adjacent to streams in Channel Migration Zones (“CMZ”) and alternate routes should be identified. If alternate routes are not possible within the CMZ, roads will be constructed with minimum fill depths, and include drainage features at all active channels.

12. Stream crossing culvert installations must be designed to accommodate fish passage on fish-bearing streams.

Road Condition Tracking

The Landowner commits to tracking the status of road conditions on the Land. This will be done using a road database layer that quantifies BMP status of Project Area road segments. The roads

in the database designated with a BMP status are those for which the Landowner has complete or shared management responsibility. They include private access roads off the Land that the Landowner uses and manages, such as federally cost-shared roads. BMP status will not be recorded for publicly owned roads (such as county or state roads) or access roads for which the Landowner has rights for use, but no management control or authority.

The BMP status layer will be an updateable geographic information system. It will show the road network spatially and facilitate estimation of road miles by BMP status. A BMP status designation will be assigned for each entire road segment. BMP status designations are as follows:

In Compliance: Road segment has been field-inspected and has been determined to fully meet either the Landowner's NFHCP enhanced BMPs for new roads (R2) or for old road upgrades (R5); and

Out of Compliance: Road segment has been field-inspected and has been found to contain one or more locations not in compliance with enhanced BMP standards for new roads or old road upgrades. Work required to bring the segment up to the Landowner's NFHCP enhanced BMP standards involves typical upgrades

1. Where road grades slope toward stream crossings, drivable drain dips and/or ditch relief pipes will be located at the nearest practicable location to streams with an adequate filtration zone in order to minimize sediment delivery to streams.

2. Road cross-drainage will be provided as frequently as necessary to control road tread erosion. On active native-surfaced roads, road drainage features will be located so that road runoff distances generally do not exceed 300 feet (and will not exceed 400 feet) along the road centerline. On highly erodible soil types, or on road grades steeper than 8%, this spacing will be reduced from the specifications listed above.

3. Where existing stream crossing culverts have fulfilled their design life (or have been washed out) replacements will be designed to carry the 100-year peak flood as determined by U.S. Geological Survey flood magnitude prediction procedures. Alternatively, the culvert size for a 100-year flood may be calculated by a Landowner hydrologist based on an analysis of channel dimensions).

4. When the outlet of road drainage features is too close to streams for effective forest-floor filtration, supplemental sediment filtration will be provided (such as slash filter windrows, straw bales, silt fences, etc.) and/or drainage feature spacing will be decreased to minimize sediment delivery.

5. For stream-adjacent/parallel roads or where there is a high density of stream crossings, simple/inexpensive re-location will be utilized in addition to (or in lieu of) road drainage improvements where possible.

6. Where upgrading or road use exposes bare mineral soil, disturbed areas will be grass seeded during appropriate soil moisture conditions before the end of the current operating season.

Hot Spots: These segments are a subset of the “Out of Compliance” designation and are designated as such so that treatment can be prioritized according to the severity of the problem and more rapidly than the road upgrade targets. Out of Compliance is identified when a road segment (or portion of a road segment) is found to contain one or more locations that have more complicated solutions, have a much higher water quality impact, or are costlier to address than standard BMP improvements.

Periodic Re-inspection and Maintenance: All roads in the Easement will be upgraded and maintained “In Compliance” by the end of 2019. Thereafter, the Landowner will re-inspect roads that have been constructed or upgraded to enhanced BMP standards and perform any maintenance necessary to preserve enhanced BMP function. The maximum road re-inspection interval will not exceed 5 to 7 years.

- Reconnaissance will be conducted following 25-year (or greater) flood events to identify new or unanticipated road maintenance needs. When triggered as a result of aerial observation, a road and stream crossing field inspection will be conducted in the principally affected portion of the flood-area within one operating season.
- Sediment will not be directly discharged to streams during road maintenance activities.
- Maintenance activities will be conducted so that the road is not progressively widened over time or the integrity of the road standard is not otherwise diminished.

Riparian Harvest

The Landowner will not harvest timber, utilize mechanical equipment off of established roads or conduct timber-management activities within the Restricted Zone.

For all other timber management prescriptions, the Landowner will use State Streamside Management Zones (SMZ) as a minimum in all cases for applying NFHCP riparian. The Montana SMZ Rules dated 3/15/93 and as updated from time to time, will be used as the NFHCP basis.

Special Prescriptions for High Sensitivity Channel Migration Zones (CMZs)

Descriptions of Channel Migration Zone Types and Their Sensitivity to Timber Harvest

CMZ Type	Definition	Stream Gradient	Sensitivity to Timber Harvest
A	Flat, relatively unconfined floodplain. Channel changes primarily through gradual erosion at the outside of bends, but also through flood events.	0% to 1.5%	Moderate
B	Flat to moderately steep, unconfined to moderately confined floodplain. Channel changes primarily through LWD	1% to 3.5%	High

	obstructions and/or bedload deposition during flood events, but also through gradual erosion at the outside of bends.		
C	Moderately steep, moderately confined floodplain. Channel changes through LWD obstructions and/or bedload deposition during flood events.	3% to 6%	High
D	Steep, alluvial fans. Channel changes primarily through bedload deposition during flood events, but also through LWD obstructions.	4% to 8%	Moderate
E	Steep, relatively confined floodplain. Channel changes primarily through bedload deposition during flood events, but also through LWD obstructions.	4% to 8%	Moderate

WHERE CMZs ARE CLASSED AS TYPE B AND TYPE C OR ARE KEYED OUT AS HIGH SENSITIVITY USING THE CMZ FIELD KEY.

In the CMZ:

- No-harvest is allowed within the full CMZ width.
- Yarding corridors are prohibited unless needed to minimize road construction. When needed they must be approved as a site-specific cooperative management response and kept to the minimum width while still allowing harvest.

On the terrace slope from the outside of the CMZ upslope for 50 feet:

- Apply the limited harvest rule and provisions (*See below*).
- No-harvest will be applied where terrace slope is within 25 feet of the ordinary high-water mark.
- *Exception:* where stream segment is less than 10 feet, bank full width, and is farther than 500 feet from its confluence with a larger stream, the no-harvest zone need not be extended to the terrace slope.
- Terrace slope prescription need not extend beyond the top of the terrace slope (the edge of the bench) provided the State rule is met.
- Ensure the applicable State riparian rule is met.

WHERE CMZs ARE CLASSED AS TYPE A, D, OR E, OR ARE KEYED OUT AS MODERATE SENSITIVITY USING THE CMZ FIELD KEY.

In the CMZ:

- No-harvest for 25 feet from the ordinary high-water mark.
- Yarding corridors are prohibited through no harvest areas unless needed to minimize road construction. When needed, they must be approved as a site-specific cooperative management response and kept to the minimum width while still allowing harvest.
- Apply limited harvest rule and provisions for remainder of CMZ (*See Rp2*).
- Favor trees adjacent to relic channels for retention.
- Apply equipment exclusion rule (*See below*).

Limited harvest rule:

Harvest is allowed to an average 22-foot spacing or less of trees larger than 8 inches diameter breast height (DBH), which corresponds to 88 trees per acre.

- No more than 50% of trees greater than 8 inches DBH may be harvested.
- Trees retained must be representative of the size of trees in the pre-harvest stand.

Limited harvest provisions:

- Concentration: Concentrate leave trees closer to the stream (or no-harvest CMZ) when applicable.
- For implementation audits, concentration will be considered met if on average no more than 30% of the allowable number of harvest trees have been removed from the first 25 feet of streamside zone measured out from the stream (or no-harvest CMZ) where applicable.
- Lineal distribution: Trees retained will be lineally distributed evenly along the length of the stream segment even though they may be concentrated closer to the stream. When operationally necessary for yarding, openings in the lineal distribution of trees will be allowed provided:
 - Openings are as small as operationally feasible; and/or
 - Reduced retention in openings is compensated for adjacent to openings
- Tree lean: Trees leaning toward the stream or CMZ will be favored for retention.
- Streamside road mitigation:
 - Within harvest unit: Where a stream-adjacent parallel road occurs within 50 feet of a stream or CMZ on the same side of the stream as the harvest unit, trees per acre for retention must be calculated for the entire 50 feet. In other words, retention in the forested portion of the limited harvest area must compensate for the lack of trees in the road.
 - Across from harvest unit: Where a stream-adjacent parallel road occurs within 50 feet of a stream or CMZ across from the harvest unit, compensation for trees in the road will occur in the following manner. A determination will be made whether there are enough trees in the full 50 feet across the stream to meet retention requirements in the event of a future harvest. If compensation cannot be provided for across the stream, additional trees will be left in the current harvest to compensate for the portion of the road in the 50-foot zone across the stream.
 - Road abandonment: As an incentive to abandon streamside roads, road abandonment may be performed in lieu of increased retention. Roads that meet all of the following conditions can be declared abandoned.
 - 1) The road is physically blocked to vehicles.
 - 2) Bridges and stream culverts are removed. Fills leading to the stream crossing are pulled back from the stream and the slope angle re-contoured such that it mimics the natural slopes above and below the crossing. All exposed soils are grass seeded, fertilized (as necessary), and mulched.
 - 3) Road fills are stable. Where perched fills exist, partial or total re-contouring will be utilized to pull back the perched portion and place it on the inside of the road prism or end-hauled to a safe location.

- 4) Ditches are left in a suitable condition to reduce erosion, and continuous ditch runs do not exceed 100 feet.
- 5) The road tread is out-sloped, water-barred, or otherwise left in a condition suitable to control erosion and maintain water movement. Where the tread is flat, the road is water-barred at a maximum 100-foot interval.
- 6) Water-bars or drainage features are located such that accumulated surface water from seeps or springs in the cut-slope are passed across the road prism and returned to the forest floor as close to the point of origin as reasonably practicable.
- 7) Road tread, cut-slopes, and fill-slopes are vegetated, or have been grass seeded. If necessary to promote grass establishment, the road tread has been scarified.
- 8) The intent is that the road will be removed from the transportation system and will not be used again.

Deviations from one or more criteria listed above would be allowed if they resulted in less overall impact or risk but must be approved by the Department.

On the terrace slope from the outside of the CMZ upslope for 50 feet;

- Apply the limited harvest rule and provisions; and
- No-harvest will be applied where terrace slope is within 25 feet of the ordinary high-water mark.

Exception: where stream segment is less than 10 feet, bank full width, and is farther than 500 feet from its confluence with a larger stream, the no-harvest zone need not be extended to the terrace slope.

- Terrace slope prescription need not extend beyond the top of the terrace slope (the edge of the bench) provided the State rule is met.
- Ensure that the applicable State riparian rule is met.

CMZ equipment exclusion rule:

Tracked or wheeled equipment operation in the CMZ will be prohibited (except for road construction), except where all of the following specific conditions are met:

- There exist winter conditions with adequate snow or frozen ground or very dry conditions in the absence of riparian vegetation types;
- Operation of wheeled or tracked equipment does not cause rutting or displacement of the soil;
- The vegetative integrity of the CMZ is conserved; and
- Operation of wheeled or tracked equipment is conducted no closer than 50 feet from the ordinary high-water mark of an active channel.

HIGH SENSITIVITY STREAMS WITHOUT CMZ

A stream segment is considered to be high sensitivity where it exhibits a forced pool riffle/plane bed morphology (gradient is generally 1.5 to 3.0%, the majority of the pools are formed by logs, when pools are not present the slope is uniform and constant, and the dominant substrate is gravel to cobble). The upstream extent of the stream segment will extend at least 100 feet above the upstream extent of indicators.

Prescription applied:

- Fully implement applicable State riparian rules.
- Apply no-harvest within 25 feet of the ordinary high-water mark.
- Yarding corridors are prohibited in no harvest areas unless needed to minimize road construction. When needed, they must be approved as a site-specific cooperative management response and kept to the minimum width while still allowing harvest.
- Apply the streamside roads mitigation provision.
- Retain those trees whose root systems are integrated into the stream bank.

INTERFACE CAUTION AREAS (ICAs)

Applies to all Class 1 streams in the Easement:

ICA Location:

The ICA will be delineated within a harvest project from the streamside, will include the riparian areas previously defined and will extend beyond the riparian zone to a point designated by the Landowner's forester that meets the following criteria:

- The average width of the ICA will be at least 150 feet horizontal distance measured from the edge of the stream.
- Streams that are first order, greater than 10% in gradient, or not accompanied by a distinct valley feature will not be required for inclusion in the average width requirement and calculation. In cases where they are not included, the feathering feature (below) will be applied even if it goes beyond the hydrologic divide for that stream.
- The ICA (for determining average width) may not be extended beyond the hydrologic divide or the nearest road to the stream, unless that road has been abandoned.
- The minimum ICA width will be 100 feet slope distance from the outside of the CMZ, unless it is limited by the hydrologic divide or nearest existing road.

ICA Requirements:

- Constructed skid trails will be prohibited.
Exception: if a constructed skid trail is required within the ICA, it will be fully reclaimed within the same operating season.
- Mechanical site preparation and slash treatment with tractors is prohibited.
 - This prohibition applies where ground slope is greater than 20%.
 - Excavator may perform piling or spot scarification only where slopes exceed 20%.
- Broadcast burning is prohibited.
- Clearcutting in the ICA will be avoided, provided that when the clear-cut harvest method is applied in the ICA, it will be limited to no more than 5% of total ICA area annually.
- Roads: Roads will be prohibited within the ICA.

- New roads will not be constructed within the ICA except where necessary to cross a stream.
- ICAs will not extend beyond existing roads.
- Field Measurement: When ICA is at the minimum width, field measurement will be employed to ensure compliance.
- Supplemental tree retention (feathering) will be provided adjacent to the SMZ retention zone provided for by State rules for 50 feet to provide a buffer to the SMZ at these levels:
 - 60 or more trees per acre larger than 20 feet tall, or
 - 30 or more trees per acre larger than 10-inch DBH, or
 - A prorated combination of the above.
 - Where the adjacent post-harvest stand exceeds these levels, the supplemental tree retention requirement will be considered met. Feathering outside of the SMZ is not required in those limited circumstances where ecological and silvicultural conditions warrant, such as stagnant lodgepole pine timber types or insect and disease infestations.
 - The outside bounds of the 50 feet may be an estimated distance and may form the outside bounds of the ICA for those streams not subject to the average width requirement and calculations.
- Skid trails will be designed to further minimize soil and vegetation disturbance immediately adjacent to the SMZ:
 - Directional skidding away from SMZ will be used to the extent feasible, provided the directional trail does not increase the risk of routing sediment to the stream.
 - Skidding equipment should be confined to designated skid trails or corridors; avoid dispersed skidding unless ground is protected with a snow cover.
 - Spacing between skid trails or corridors should be maximized to maintain the integrity of the post-harvest stand.
 - Seek to avoid concentrating projects with below-average widths in one, fourth order watershed.
- Road Abandonment: Road abandonment adjacent or in proximity to streams will have high priority.
 - If a road is abandoned in conjunction with or prior to a harvest project, the ICA may be extended beyond the abandoned road. This provides a direct incentive to abandon roads that are adjacent to streams.